

**REQUEST FOR PROPOSALS**

**FOR**

**NEW SOLAR HOMES PARTNERSHIP**  
**PUBLIC AWARENESS CAMPAIGN**



**RFP #400-06-401**

**[www.energy.ca.gov/contracts](http://www.energy.ca.gov/contracts)**

**State of California**  
**California Energy Commission**

**August 2006**

Questions or clarifications about this solicitation should be directed to:

Peg A. Bergmann, Contracts Officer  
California Energy Commission  
1516 Ninth Street, MS-18  
Sacramento, California 95814  
Telephone: (916) 654-7093  
E-mail: [pbergman@energy.state.ca.us](mailto:pbergman@energy.state.ca.us)

This solicitation is available at the following Web Site:

California Energy Commission      [www.energy.ca.gov/contracts](http://www.energy.ca.gov/contracts)

The Terms and Conditions are available at the following Web Site:

General Terms and Conditions      [www.energy.ca.gov/contracts](http://www.energy.ca.gov/contracts)

Copies of this solicitation may also be obtained by contacting:

California Energy Commission  
1516 Ninth Street, MS-18  
Sacramento, California 95814  
Telephone: (916) 654-4392  
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- A      Budget Detail Forms
- Form A, Labor Rates
  - Form B-1, Contract Labor Costs
  - Form B-2, Direct Costs
  - Form B-3, Travel Worksheet
  - Form C, Proposed Contract Budget

## **Attachments**

- 1      Contractor Status Form
- 2      Disabled Veteran Business Enterprise Instructions
- 3      Contractor Certification Clauses
- 4      Customer References
- 5      Sample Standard Agreement (Std. 213) with General Terms and Conditions
  - Scope of Work
  - Budget
  - Department of General Services General Terms and Conditions
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6.      Target Area Contract Preference (TACPA)
7.      Local Agency Military Base Recovery Act (LAMBRA)
8.      Enterprise Zone Preference Request (EZA)

# **REQUEST FOR PROPOSALS**

## **Section 1 - Introduction**

### **Background Summary**

On January 12, 2006, Governor Schwarzenegger's California Solar Initiative (CSI) was approved by the California Public Utilities Commission. This action created a \$2.8 billion ten-year joint California Energy Commission and California Public Utilities Commission solar incentive program.

The Energy Commission's portion of the CSI, the "New Solar Homes Partnership" (NSHP), will provide incentives to builders and developers who install photovoltaic (PV) systems on new residential building construction, with particular focus on single family and low-income buildings. The goal of the NSHP is to achieve a dramatic penetration of highly energy efficient, solar-powered homes in California. The Energy Commission's goal is to achieve 400 megawatts of new distributed solar capacity by 2017. The NSHP was created to achieve this objective, and an advisory committee was formed to provide additional industry guidance particularly during the development of the program. As part of the NSHP, the Energy Commission intends to provide \$350 million in financial incentives as well as an assortment of non-financial assistance in the form of builder and market support to help create a self-sustaining market for new solar homes, starting in 2007. Like the Energy Commission's Emerging Renewables Program, the financial incentives are expected to offset the cost of purchasing and installing eligible solar energy systems on new homes.

### **Purpose of this Request for Proposals**

The purpose of this Request for Proposals (RFP) is to solicit proposals from qualified marketing and communication firms with the resources, experience and abilities to provide an array of services that will support the NSHP, encourage the purchase of new solar homes, and help establish a self-sustaining solar homes market. The successful Bidder will be expected to develop and present an approach for identifying California consumers most likely to purchase new solar homes, develop a public awareness and marketing campaign and related messages and strategies to reach those consumers, and work with the Energy Commission to implement the campaign, while coordinating activities among various public and private stakeholders. The successful Bidder will also design and implement a method to measure the effectiveness of the campaign and ensure it meeting the Energy Commission's objectives and resulting in increased purchases of new solar homes.

Target audiences for the campaign will include new home buyers and builders in California, trade organizations and industry groups, and financial institutions. Campaign-related services will include, but are not limited to, behavioral and social marketing research, public relations, advertising, and the development of partnerships with private and public entities such as production home builders, trade organizations and industry groups, financial institutions, and chambers of commerce.

## **Section I - Introduction**

### **Campaign Goals**

The goals of the public awareness campaign are three-fold: 1) educate new home buyers and builders, trade organizations and industry groups, and financial institutions on the value of new homes that incorporate high levels of energy efficiency and high performing solar systems, 2) to encourage builders to incorporate high levels of energy efficiency and high performing solar systems as standard features on new production homes, and 3) to encourage home buyers to ask for high levels of energy efficiency and solar photovoltaic systems when purchasing new production homes.

### **Available Funding**

There is a maximum of \$4.5 million available for the contract resulting from this RFP, with a maximum of \$1.5 million available each year of the program. The first year is a start-up year requiring substantial investment in research and development of the campaign materials. Funds will be allocated to research and developing the campaign, and for the campaign implementation, which will include advertising, public relations and collaborative arrangements.

The Energy Commission retains the option to extend the contract for up to two (2) additional one-year periods, beginning in 2008 through 2009. The amount of the renewal options will be up to \$1.5 million annually, based on the availability of funds. The allocation amount may be modified in subsequent years as the campaign and NSHP progresses. The Energy Commission reserves the right to modify these allocations in the final budget.

### **How to Respond to This RFP**

Responses to this solicitation will be in the form of a Proposal according to the format described in this RFP. The Proposal shall document the Bidder's qualifications to perform the tasks described in the Scope of Work found in this RFP.

### **Whom to Contact**

This RFP is available through the Energy Commission's Web Site at [www.energy.ca.gov/contracts](http://www.energy.ca.gov/contracts). Questions or clarifications about this RFP should be directed to:

Peg A. Bergmann, Contract Officer  
California Energy Commission  
1516 Ninth Street, MS-18  
Sacramento, CA 95814  
Telephone: (916) 654-7093  
E-mail: [pbergman@energy.state.ca.us](mailto:pbergman@energy.state.ca.us)

### **Verbal Communication**

Any verbal communication with an Energy Commission employee concerning this RFP is not binding on the State and shall in no way alter a specification, term, or condition of the RFP. Therefore, all communication should be directed to the Energy Commission's Contract Officer assigned to the RFP.

## Section I - Introduction

### Key Activities and Dates

Key activities and tentative dates for this RFP are presented below:

<u>Activities</u>	<u>Tentative Dates</u>
RFP release	8-7-06
Pre-Bid Conference	8-18-06
Written Question Submittal Deadline	8-18-06
Distribute Addenda	8-24-06
DVBE Advertising	8-28-06
Deadline to submit Proposal	9-14-06
Interviews with Bidders	10-3 06/10-5-06
Confirmation of DVBE Commercially Useful Function	10-10-06
Notice of Proposed Award	10-13-06
Energy Commission Business Meeting	11-29-06
Agreement Start Date	1-3-07
Agreement End Date	12-31-09

### How to Obtain Further Information

One Pre-Bid Conference will be held to answer questions. Please call (916) 654-4392 to confirm date, time, and location, or refer to the Energy Commission's Web Site at [www.energy.ca.gov/contracts](http://www.energy.ca.gov/contracts). Prospective Bidders are encouraged to attend the meeting to be held on:

**August 18, 2006, 10:00 a.m. to 12:00 Noon**  
**California Energy Commission**  
**1516 Ninth Street, Sacramento, CA 95814**

Potential Bidders may ask questions about the requirements of this RFP. Bidders may prepare their questions in writing and submit them to the Contact Person. At the option of the Energy Commission, questions may be answered orally at the Pre-bid Conference or in writing. All questions will be answered in writing and will be distributed to recipients of this RFP after the Pre-Bid Conference and posted on the Energy Commission's Web Site at [www.energy.ca.gov](http://www.energy.ca.gov).

To participate in the meeting using the WebEx onscreen and audio functions, please go to the following URL in your web browser on the date and time of the meeting:

<<https://energy.webex.com/energy/j.php?ED=88490557&UID=43358372>>

If the link above does not work, go to:<https://energy.webex.com> and enter the meeting number:  
**921 016 380**

When prompted, enter your information and the following meeting password:  
**nshp\*rfp818**

Provide your phone number, when prompted, to receive a call back on your phone for the audio of the workshop. Alternatively, you may call 1-866-469-3239.

## **Section I - Introduction**

International WebEx attendees please note: When you login and are prompted to enter your phone number, please click on the "Country/Region..." button in the dialogue box and select your country.

If you have difficulty joining the meeting, please call the WebEx technical support number at 1-866-229-3239.

If you do not have computer access and wish to participate in the meeting by phone, you may call 1-866-469-3239.

Participation through audio only.

### **Bidder's Responsibilities for Submitting a Proposal**

It is the Bidder's responsibility to:

- Carefully read this entire RFP.
- Ask the appropriate questions in a timely manner.
- Submit all required responses in a complete manner by the required date and time.
- Make sure that all procedures and requirements of the RFP are followed and appropriately addressed.
- Carefully reread the entire RFP before submitting a Proposal.



## Section II - Administrative Information

### **About This Section**

This section provides Bidders details in submitting a successful Proposal which may include definitions of important terms, sources of information, submitting the Proposal, confidential information, grounds for rejecting a Proposal, and other administrative details.

### **RFP Defined**

The competitive method used for this procurement of services is a Request for Proposals (RFP). A Proposal submitted in response will be scored and ranked based on the criteria in this RFP. Every Proposal must establish in writing the Bidder's ability to perform the RFP's tasks.

### **Where and How to Deliver the Proposal**

A Bidder may deliver a Proposal by:

- U.S. Mail,
- in person, or
- messenger service.

All Proposals must be **delivered** to the Energy Commission's Contracts Office at 1516 Ninth Street, M-S 18, Sacramento, CA 95814, by 5:00 P.M. on the deadline to submit Proposal date. Pursuant to PCC section 10344, any proposals received after 5:00 P.M. will not be accepted. E-mail and facsimile (FAX) transmissions **WILL NOT** be accepted in whole or in part under any circumstances.

### **Number of Copies to Submit**

Each Bidder must submit an original Proposal and seven copies. The Bidder must submit the original and copies in a sealed envelope labeled "Title and RFP # here".

### **Important Administrative Details**

Refer to the Contractor Certification Clauses included in this RFP.

### **Bidder's Cost**

The Bidder is responsible for the cost of developing a Proposal and this cost cannot be charged to the State.

### **Confidential Information**

No confidential information is allowed to be submitted in your Proposal. Any Proposal that contains confidential information will be rejected.

## Section II – Administrative Information

### Disabled Veteran Enterprises

This Agreement is subject to a participation goal of three percent (3%) certified California Disabled Veteran Business Enterprises (DVBE) as set forth in Public Contract Code sections 10115, et seq.

### DVBE Requirement for “Commercially Useful Function”

A certified DVBE shall provide goods or services that contribute to the fulfillment of the Agreement requirements by performing a commercially useful function.

A DVBE is deemed to perform a commercially useful function if it does all of the following:

1. Is responsible for the execution of a distinct element of the work of the Agreement.
2. Carries out its obligation by actually performing, managing, or supervising the work involved.
3. Performs work that is normal for its business services and functions.
4. Is not further subcontracting a portion of the work that is greater than that expected to be subcontracted by normal industry practices.

A contractor, subcontractor, or supplier will not be considered to perform a commercially useful function if the contractor's, subcontractor's, or supplier's role is limited to that of an extra participant in a transaction, contract, or project through which funds are passed in order to obtain the appearance of DVBE participation.

**NOTE: The Contracts Office will evaluate the highest ranked Bidder's DVBE documents for compliance with the Commercially Useful Function Requirements.**

### Small Business/Microbusiness Preference

Government code Section 14835, et seq., requires that a five percent (5%) cost preference be given to any Bidder who is certified by the State of California as a small business for the purpose of evaluating cost bids. A Bidder who claims this preference may include a copy of its approved certification form in the Bidder's proposal.

### Non-Small Business Preference

The preference to a non-small business Bidder that commits to small business or microbusiness subcontractor participation of twenty-five percent (25%) of its net bid price shall be five percent (5%) of the lowest, responsive, responsible Bidder's price.

### Target Area Contract Preference

The Target Area Contract Preference Act (TACPA, Government Code Section 4530 et seq.) provides a five percent (5%) preference to California-based companies that perform State contract work in a distressed area. Bidders should complete the TACPA form Attachment if they qualify for this preference. If you have questions regarding this preference, please contact OSBCR at (916) 375-4609.

### Enterprise Zone Preference Request

The Enterprise Zone Act (EZA, Government Code Section 7080 et seq.) provides an incentive for business and job development in distressed and declining areas of State. Bidders should review the EZA form Attachment to determine if they qualify for this incentive.

## **Section II – Administrative Information**

### **Local Agency Military Base Recovery Act**

The Local Agency Military Base Recovery Area Act (LAMBRA, Government Code Section 7118) provides a five percent (5%) preference to California-based companies that perform State contract work in the LAMBRA. Bidders should review the LAMBRA form Attachment to determine if they qualify for this preference.

### **RFP Cancellation**

If it is in the State's best interests, the Energy Commission reserves the right to do any of the following:

- Cancel this RFP,
- Amend this RFP, or
- Reject any or all Proposals received in response to this RFP

### **RFP Amendments**

If the RFP is amended, the Energy Commission will send an addendum to all parties who requested the RFP and will also post it on the Energy Commission's Web Site:

[www.energy.ca.gov/contracts](http://www.energy.ca.gov/contracts) and Department of General Services' Web Site:

[www.dgs.ca.gov/cscr](http://www.dgs.ca.gov/cscr).

### **Errors**

If a Bidder discovers any ambiguity, conflict, discrepancy, omission, or other error in the RFP, the Bidder shall immediately notify the Energy Commission of such error in writing and request modification or clarification of the document. Modifications or clarifications resulting from this notice will be posted on the Energy Commission's Web Site without divulging the source of the request for clarification. The Energy Commission shall not be responsible for failure to correct errors.

### **Modifying or Withdrawing a Proposal**

#### **Withdrawal/Modification**

A Bidder may, by letter to the Contact Person, withdraw or modify a submitted proposal before the deadline to submit a Proposal. A Proposal cannot be changed after that date and time.

#### **Immaterial Defect**

The Energy Commission may waive any immaterial defect or deviation contained in a Bidder's proposal. The Energy Commission's waiver shall in no way modify the proposal or excuse the successful Bidder from full compliance.

### **Grounds to Reject a Proposal**

#### **A Proposal shall be rejected if:**

- It is received after the exact time and date set for receipt of Proposals (Public Contract Code, Section 10344(a)).
- It is considered nonresponsive to the California Disabled Veteran Business Enterprise participation requirements.
- It is lacking a properly executed Contractor Certification Clause(s)
- It contains false or intentionally misleading statements or references which do not support an attribute or condition contended by the Bidder.

## **Section II – Administrative Information**

- If the Proposal is intended to erroneously and fallaciously mislead the State in its evaluation of the Proposal and the attribute, condition, or capability is a requirement of this RFP.
- There is a conflict of interest as provided in Public Contract Code sections 10410, 10411, 10365.5 or any other conflict of interest law or eligibility conflict interest rules in this RFP.
- It contains confidential information.

### **A Proposal may be rejected if:**

- It is not prepared in the mandatory format described.
- It is unsigned
- It does not literally comply or contains caveats that conflict with the RFP and the variation or deviation is not material, or it is otherwise nonresponsive.

### **Selection Process Steps**

The Energy Commission will organize a committee whose members have expertise in evaluation consulting services. The Evaluation Committee will evaluate the Proposals as follows:

#### **Fulfillment of RFP Mandatory Format**

The Contracts Office will first identify those Bidders whose Proposals adhere to the mandatory format outlined in this RFP. Bidders who do not follow the mandatory format may be eliminated from the competition.

#### **Evaluation of Technical Qualifications and Cost Proposal**

The Evaluation Committee will review and score all remaining Proposals based on the Evaluation Criteria in this RFP. The preliminary final score for each Proposal reflects the average of the combined scores of all Evaluation Committee members.

#### **Presentation and Interviews**

Bidders who are successful in passing the technical portion of the evaluation will be required to give a presentation to the Evaluation Committee during the Evaluation Process. A presentation allows the Evaluation Committee to evaluate the communications skills of the Bidder. Bidders may distribute Additional information to the Evaluation Committee at that time. Details of the format requirements for the presentation will be provided to successful Bidders following the preliminary scoring of the technical and cost summary portion of the proposals.

The Evaluation Committee may also conduct interviews during the Evaluation Process. The purpose of the interviews is to clarify any issues or concerns the Evaluation Committee may have. The Evaluation Committee may provide the Bidders with a copy of the questions and/or issues to be addressed and a format for structured discussions. The Evaluation Committee may use patterned questions and/or questions specific to a proposal to conduct Bidder interviews. Upon completion of the interviews the Evaluation Committee may make adjustments to the scores and re-rank the Bidders.

Bidders should anticipate travel to the Energy Commission Headquarters for the presentations and interviews.

## **Section II – Administrative Information**

The Evaluation Committee may reject all Bidders and Proposals if none are considered in the best interest of the Energy Commission.

### **DVBE Evaluation for Commercially Useful Function**

The Contracts Office will evaluate DVBE documents for compliance with the Commercially Useful Function Requirements.

### **Notice of Proposed Award**

A Notice of Proposed Award (NOPA) will be released and posted on the Energy Commission's Web Site.

### **Disposition of Bidder's Documents**

On the submission date, all Proposals and related material submitted in response to this RFP become the property of the State. After the Notice of Proposed Award is posted, all Proposals and related materials become public records. In addition, all evaluation and scoring sheets become public records after the Notice of Proposed Award is posted. The original Proposal may be returned to a Bidder upon written request.

### **Agreement Requirements**

See the sample of an Agreement included in this RFP.

### **No Agreement Until Signed & Approved**

No Agreement between the Energy Commission and the successful Bidder is in effect until the Agreement, signed by the Contractor, has been approved at a Energy Commission Business Meeting and, if over \$75,000, approved by the Department of General Services, Legal Services.

### **Protest Procedures**

A Bidder may file a protest against the proposed awarding of a contract. Once a protest has been filed, contracts will not be awarded until either the protest is withdrawn, or the Energy Commission cancels the RFP, or the Department of General Services (DGS) decides the matter.

Please note the following:

- Protests are limited to the grounds contained in the California Public Contract Code section 10345.
- During the five working days that the NOPA is posted, protests must be filed with the DGS Legal Office and the Energy Commission Contracts Office.
- Within five days after filing the protest, the protesting Bidder must file with DGS and the Energy Commission Contracts Office a full and complete written statement specifying the grounds for the protest.
- If the protest is not withdrawn or the solicitation is not canceled, DGS will decide the matter. There may be a formal hearing conducted by a DGS hearing officer or there may be briefs prepared by the Bidder and the Energy Commission for the DGS hearing officer consideration.

## **Section III - Proposal Format and Required Documents**

### **About This Section**

This section provides Bidders with information about how to prepare a Proposal in response to this RFP. Bidders must follow all Proposal format instructions, answer all questions, and supply all requested data.

### **Required Format**

The following topics constitute the mandatory order of presentation for a Proposal. Provide one original and seven copies. Two-sided copying is preferred:

#### **VOLUME 1, Administrative Response**

1. Cover Letter
2. Table of Contents
3. Required Documents and Statements
  - Contractor Status Form
  - Completed Disabled Veteran Business Enterprise Forms
  - Signed Contractor Certification Clauses
  - Summary

#### **VOLUME 2, Section 1, Technical Response**

1. Approach to Tasks in Scope of Work
2. Bidder Qualifications
3. Cost Minimization
4. Project Team Organization Structure
5. Project Team Relevant Experience and Qualifications
6. Customer References
7. Examples of Current and Prior Work
8. Response to Hypothetical Situation

#### **VOLUME 2, Section 2, Cost Summary**

1. Cost Summary Letter
2. General Requirements
3. Form A, Labor Rates
4. Form B-1, Contract Labor Costs
5. Form B-2, Direct Costs
6. Form B-3, Travel Worksheet
7. Form C, Proposed Contract Budget

#### **VOLUME 1, ADMINISTRATIVE RESPONSE FORMAT**

##### **Cover Letter**

Each Bidder shall submit a cover letter on company letterhead that includes a reference to: "Title of RFP and RFP number here".

## Section III – Proposal Format and Required Documents

### **Table of Contents**

Each Proposal must include a Table of Contents organized in the mandatory order cited previously and with corresponding page numbers.

### **Required Documents and Statements**

Every Bidder must complete and include the following forms with their Proposal:

1. Contractor Status Form
2. Disabled Veteran Business Enterprise (DVBE) forms (Bidders who qualify as government entities are exempt from this requirement).

Non-governmental entities must have either three percent DBVE participation *or* must demonstrate a good faith effort to obtain DVBE participation. It is important that you thoroughly read the instructions provided for DVBE requirements. To meet the DVBE program requirements, Bidders must complete and fully document at least one of the following compliance options:

Option A – Commitment to full DVBE Participation – For a Bidder who is a DVBE or who is able to meet the commitment to use identified DVBE(s) to fulfill the full DVBE participation goal.

Option B – Good Faith Effort – For a Bidder documenting its completed effort, made prior to the Bid due date, to obtain DVBE participation that may result in partial or no DVBE participation.

3. Contractor Certification Clauses
4. Summary: Summarize the Bidder's overall approach in completing the tasks outlined in the Scope of Work.

## **VOLUME 2, SECTION 2, TECHNICAL RESPONSE FORMAT**

### **Approach to Tasks in Scope of Work**

Describe the Bidder's approach to providing services listed in the Scope of Work, highlighting outstanding features, qualifications, and experience.

### **Bidder's Qualifications**

#### **Contract Management and Administrative Qualifications**

Describe the Bidder's approach to contract management and administration of this Agreement. Identify the Contract Management team members. Describe where Contractor's office(s) are located and proposed methods of minimizing costs to the State. Describe where subcontractors are located and proposed methods of minimizing costs to the State.

#### **Team Members and Relationship**

Provide a short description of each firm and key members on the team. Describe the relationship between the Contractor and subcontractors on your team. Indicate any history of a working relationship between the team members noting any significant success stories.

## **Section III – Proposal Format and Required Documents**

### **Analytical Tools**

Describe what type of computers and/or analytical tools will be used to accomplish the tasks listed in the Scope of Work.

### **Cost Minimization**

Without revealing hourly rates or cost, describe the efforts that the Prime Contractor will take to minimize costs to the Energy Commission in the successful performance of this contract. For example:

#### **In-State Travel Costs**

What policy will the Contractor adopt as related to team member time charges when the team member is traveling and/or not working actively on the contract?

#### **Out of State Travel Costs**

It is the Energy Commission's intent to reimburse contractors for airfare within California. If the Contractor and/or team members are located out of state, will the Contractor establish an office in California and/or initiate all travel and related time charges from this California office, and not the out of state office? The Energy Commission is interested in reimbursing the Contractor for active time spent working on this contract, not travel.

### **Project Team Organization Structure**

1. Describe the organizational structure of the Bidder, including providing an organizational chart of the entire contract team.
2. Advise the location of the Bidder's and Subcontractor's headquarters and satellite office(s) and proposed methods of minimizing costs to the State.
3. Provide a short description of each firm and key members on the team. Describe the relationship between the Contractor and subcontractors on your team. Indicate any history of a working relationship between the team members noting any significant success stories
4. Describe professional awards.
5. Describe the organization, composition, and functions to be performed by staff members of the Bidder and any subcontractors and how the staff pertains to this contract.
6. Identify a primary contact person. This person should attend the presentation/interview session. At least one person from each technical area should also attend.
7. Describe any technical capabilities that would facilitate communicating with the Energy Commission (e.g., internet capability, Webex, and electronic reports).

### **Project Team Relevant Experience and Qualifications**

1. Document the project team's qualifications as they apply to performing the tasks described in the Scope of Work. Describe the nature and scope of recently completed work as it relates to the Scope of Work.
2. Identify and list all Bidder staff and subcontractors (all team members) who will be committed to the tasks and describe their roles.
3. Describe job classification, relevant experience, education, academic degrees and professional licenses of these technical staff team members.
4. Provide a current resume for all team members listed and identify the percentage of time each team member will be available throughout the contract.



## Section III – Proposal Format and Required Documents

5. Describe their familiarity with the administration, management, and technical expertise in performing pertinent tasks identified in the Scope of Work.

### **Customer References**

Each Bidder shall complete a Customer Reference Form. Three customer references are required for the Contractor, two of which must be current customers. Three customer references are also required for each subcontractor.

### **Examples of Current and Prior Work**

Each Bidder shall provide a minimum of one example of a work product for the services to be provided (it is not necessary to provide more than one copy of each work product example). If more than one company will be providing technical support in a task area, each firm shall submit one example product that demonstrates experience in potential work assignments described in this RFP. Samples must have been produced within the last two years. Examples of work products must include the following:

- Partnership Development: The Bidder is required to present and show its ability to develop partnerships that will result in contributions to the value or effectiveness of the campaign by production homebuilders, local communities, businesses and other entities advancing the NSHP.
- Advertising: The Bidder is required to demonstrate experience with identity development and branding materials, the ability to develop print and broadcast advertising, direct mail and collateral materials that will support the public awareness campaign, plan media using syndicated research sources to maximize reach and frequency, negotiate discounted media rates with added value, and secure and place paid and in-kind advertising in a variety of media on a local and statewide basis. The Bidder must demonstrate previous work experience in social or cause marketing.
- Public Relations: The Bidder is required to present and show the ability to implement media relations and public affairs locally and statewide, as well as the tactical public relations that would accompany the partnership development aspect of the public awareness campaign.
- Special Events: The Bidder is required to demonstrate an ability to plan and execute special events that would further advance the NSHP. These events may be tied to specific campaign outreach or public relations efforts.
- Research: The Bidder is required to demonstrate the ability to collect and evaluate existing data and to recommend and implement cost-effective research that will assist in the implementation and ongoing sustainability of the public awareness campaign.
- Collateral: The Bidder is required to demonstrate the ability to develop and produce collateral materials that include but are not limited to brochures, videos, audios, print pieces, and newsletters to support the NSHP.
- Web sites: The Bidder is required to demonstrate the ability to augment and advance the effectiveness of an outreach campaign with an on-line presence using the Energy Commission's existing Web sites: [www.newsolarhomes.ca.gov](http://www.newsolarhomes.ca.gov)  
[www.gosolarcalifornia.ca.gov](http://www.gosolarcalifornia.ca.gov)

## **Section III – Proposal Format and Required Documents**

### **Response To Hypothetical Situation**

Bidder shall provide a full response to the Hypothetical Situation.

### **VOLUME 2, COST BID**

#### **Cost Summary Letter**

The RFP response shall state the Bidder's costs for carrying out the project as outlined during the period of the contract. The costs must be displayed using a cost cover letter on the organization's letterhead.

#### **General Requirements**

The Bidder must submit information on all the Budget forms and will be deemed the equivalent of a formal bid submission under the Public Contract Code. Rates and personnel shown must reflect rates and personnel you would charge if you were chosen as the contractor for this RFP.

The total cost for each task shall include all costs and expenses incurred by the contractor and subcontractors, if any. There will be no additional payments of any kind. In order to show how Bidders calculated task cost, Bidders must provide a detailed budget for each task listed in the Scope of Work.

Describe how you will minimize travel costs (if located out of Sacramento region). Provide the total cost of the project, with a breakdown showing how the cost was determined and method of payment. Work performed by clerical staff must be shown separately from hours calculated for project management, research, and other professional work.

The Contractor shall be reimbursed in accordance with the provisions of the contract budget. Costs must be incurred within the term of the contract. When preparing these forms, include any increases in salaries and wages, general and administrative, overhead, etc. The rates quoted in the Cost Bid will become a part of the final contract. The hourly rates bid are considered capped and shall not change during the term of the contract.

Bidders should note that in addition to names and hourly rates presented in the Cost Bid, the technical qualifications must contain the resumes of all individuals working on projects. Individual names, corresponding hourly rates, and proposed hours will be struck from the Cost Bid for resumes missing in the technical qualifications.

The following is a list of items that must be included in the Cost Summary using Budget Detail Forms in Exhibit A:

- Bidder's Direct Labor - Name, classification, and rate per hour and number of hours by task.
- Subcontractors – Name, Technical Specialty, rate per hour, and number of hours by task.
- Travel and per diem - Identify destinations, number of trips, and cost per trip. Travel expenses incurred will be reimbursed at no more than the State per diem rates for non-represented State employees, and must be included in the Cost Bid.
- Supplies/Equipment costs specifying equipment to be bought and the disposition of equipment at the end of the contract.
- Fringe benefit costs citing actual benefits or a percentage of personal services costs.
- Overhead Rate - List basis of application and all items charged in overhead
- General and Administrative - List basis of application and all items charged in G&A

### **Section III – Proposal Format and Required Documents**

- Profit (not allowed on subcontractors invoices)
- Identify any Disabled Veteran Business Enterprise services to be performed by task and dollar amount.
- Proposed Contract Budget
- Other specific breakdown required.

## **Section IV. - Scope of Work**

### **About This Section**

In this section, the Energy Commission describes the tasks the Bidder (referred to as “Contractor” in the Scope of Work) will be asked to perform under the direction of the Energy Commission Contract Manager. This section also describes the work assignment process, deliverables, and due dates.

### **Background**

On January 12, 2006, Governor Schwarzenegger’s California Solar Initiative (CSI) was approved by the California Public Utilities Commission. This action created a \$2.8 billion ten-year joint California Energy Commission and California Public Utilities Commission solar incentive program.

The Energy Commission’s portion of the CSI, the “New Solar Homes Partnership” (NSHP), will provide incentives to builders and developers who install photovoltaic (PV) systems on new residential building construction, with particular focus on single family and low-income buildings. The goal of the NSHP is to achieve a dramatic penetration of highly energy efficient, solar-powered homes in California. The Energy Commission’s goal is to achieve 400 megawatts of new distributed solar capacity by 2017. The NSHP was created to achieve this objective, and an advisory committee was formed to provide additional industry guidance particularly during the development of the program. As part of the NSHP, the Energy Commission intends to provide \$350 million in financial incentives as well as an assortment of non-financial assistance in the form of builder and market support to help create a self-sustaining market for new solar homes, starting in 2007. Like the Energy Commission’s Emerging Renewables Program, the financial incentives are expected to offset the cost of purchasing and installing eligible solar energy systems on new homes.

### **Campaign Goals**

The goals of the public awareness campaign are three-fold: 1) educate new home buyers and builders, trade organizations and industry groups, and financial institutions on the value of new homes that incorporate high levels of energy efficiency and high performing solar systems, 2) to encourage builders to incorporate high levels of energy efficiency and high performing solar systems as standard features on new production homes, and 3) to encourage home buyers to ask for high levels of energy efficiency and solar photovoltaic systems when purchasing new production homes.

### **General Task Areas**

The Contractor shall perform the general task areas outlined below to meet the program goals and objectives. These broad task areas are not inclusive, and are intended to guide the Bidder in preparing a proposal that demonstrates that the Contractor has the technical expertise and skills necessary to successfully perform the work. Prior to initiation of each work statement task, the Contractor shall consult with the Contract Manager to discuss any technical or other issues associated with the task. The following task areas shall provide a foundation for the Contractor

## Section IV – Scope of Work

to create an innovative and effective public awareness campaign strategy for expanding consumer awareness and demand for renewable energy in California:

### **Task 1 – Contract Management and Reporting**

The Contractor shall work cooperatively with the Contract Manager to ensure that the contract proceeds on schedule and within budget. The Contractor will be a sole organization with primary administrative, technical and legal responsibility for all of the work within the Scope of Work, and shall manage the work of the entire project team (including subcontractors). Prior to initiation of each work statement task, the Contractor shall consult with the Contract Manager to discuss any technical or other issues associated with the task. The Contractor will provide the following, including, but not limited to:

- Respond to information requests or direction from the Contract Manager.
- Attend program support and project-related development meetings and hold telephone discussions regarding project management issues, as directed by the Contract Manager. Preparing a monthly progress report that summarizes all activities conducted by the Contractor and team. This includes a summary of agreement expenditures to date. The monthly progress report is due to the Contract Manager within 15 working days after the end of the month. The Contract Manager will specify the report format and the number of copies to be submitted. All monthly progress reports will coincide with the invoice period. Each monthly progress report must coincide with and accompany monthly invoices. Each monthly progress report will include:
  - ◇ The status of scheduled, on-going or completed work during the reporting period or since the previous report.
  - ◇ A discussion of any technical, scheduling, budgeting or other problems encountered during the report period.
  - ◇ A description of project expenditures and status of the contract budget.
  - ◇ Any draft or final work products developed during the reporting period, such as articles, brochures, advertisements, videotapes, web content, etc.
- Preparing at the conclusion of the contract, the Contractor shall provide a comprehensive final report, and a brief summary of the report, to the Contract Manager. The report shall be prepared in language easily understood by the public. A draft of the final report must be reviewed and approved by the Contract Manager prior to becoming final. The draft report must be received by the Contract Manager 45 days prior to the termination date indicated in the term of the contract. The Contractor shall provide 10 copies of the final report, a reproducible camera-ready master in black ink, and an electronic copy in a format to be determined by the Contract Manager. The Contractor shall meet with the Energy Commission to present the findings, conclusions, and recommendations. The final report must be delivered to the Contract Manager 30 days before the termination date indicated in the term of the contract. The Final Report shall include but is not limited to an analysis of:
  - ◇ Work accomplished under the contract.
  - ◇ Effectiveness of this contract in meeting the program goals and objectives.
  - ◇ Recommendation for future activities to improve the effectiveness of the program.

## **Section IV – Scope of Work**

### **Task 2 – Market Research**

Market research is needed to analyze and identify California home buyers who are most likely to seek higher levels of energy efficiency and solar photovoltaic systems when purchasing new homes, and to analyze and identify ways for encouraging home builders to incorporate these high levels of energy efficiency and solar photovoltaic systems as standard features in new housing developments.

The proposal shall include an assessment of what market data is available, what data is needed, and a plan for collecting, analyzing and translating data into usable information. Market research results shall identify what segments of the market will be most effective to target. Prior to initiation of each work statement task, the Contractor shall consult with the Contract Manager to discuss any technical or other issues associated with the task.

The Contractor's work under this task will include, but not be limited to the following:

- Conducting research and market analysis to specify target audiences, obstacles of past programs and home buyer and builder needs, including an evaluation of prior Energy Commission renewable program marketing material, past and current meetings from the California Energy Commission's NSHP Web site, and all other renewable marketing research that has been done by other groups.
- Assessing awareness and knowledge of solar energy, its benefits and home buyer and builder options for adopting solar energy technologies.
- Defining the most promising market segments.
- Creating market assessment reports with strategies for increasing interest in purchasing solar PV homes and increasing participation of builders in NSHP.
- Facilitating and conducting all aspects of home buyer and builder focus groups in up to four regional California markets. The focus groups shall address pertinent topics, including Zero Energy Homes (ZEH), using detailed knowledge of the psychological, financial and emotional barriers affecting the decision of home buyers in whether or not to purchase new solar homes.

Upon approval from the Contract Manager, the Contractor shall provide a draft and final report in both hard copy and electronic formats, of all research conducted, including an Executive Summary, in a format to be provided by the Contract Manager.

### **Task 3 - Campaign and Partnership Development**

Market research and analysis shall provide insight into the current level of home buyer and builder awareness of solar energy in new home subdivisions and guide development of an effective public awareness campaign, including raising awareness, increasing home buyer and builder knowledge and ultimately change attitudes and behavior. Campaign development shall be based on research results and will determine the marketing plan, message(s), brand identity, and marketing materials. Campaign development shall be tested to help identify the most effective messages and strategies to reach the target audiences, and determine the home buyer and builder obstacles. Prior to initiation of each work statement task, the Contractor shall consult with the Contract Manager to discuss any technical or other issues associated with the task.

## Section IV – Scope of Work

The Contractor's work under this task will include, but not be limited to:

- Proposing a creative and compelling marketing plan for conducting a NSHP public awareness campaign, which furthers the ensuring that campaign content is consistent with and complements current NSHP activities, goals, and objectives.
- Assessing awareness of the advertising campaign and its message(s).
- Assessing changes in attitudes and actions that result from the campaign.
- Developing effective and pre-tested messages and strategies for the target audiences.
- Determining the most effective media placement.
- Determining a cost-effective media mix of television, radio, print, outdoor and other advertising and promotion to best reach the target audiences, including bonus media spots. The Contractor shall identify and summarize the dollar equivalent of bonus media, to the extent it is recommended.
- Developing advertising content that furthers the activities, goals, and objectives of the NSHP.
- Developing a proposed co-op advertising strategy with qualified builders.
- Coordinating with one or more Energy Commission consultants or partners to strengthen the Energy Commission's current activities and increase overall effectiveness in reaching partnership goals.
- Developing a "tool-kit" of advertising materials to be tested on home buyers. This marketing and educational tool-kit will be designed to demonstrate to builders, housing stakeholders, and buyers why they should incorporate solar energy systems in new homes.
- Facilitating all aspects of presenting the draft marketing plan to stakeholders (advisory group, ZEH builders, California Building Industry Association, and other qualified builders) to validate and refine marketing messages and materials. Presentation methods and locations will be determined by the Contract Manager.
- Detailing how the campaign's effectiveness will be measured. Specifically, the Contractor will need to propose and establish a process for evaluating the effectiveness of the campaign based on "outcome" measures, as opposed to "output" measures, as they apply to builders and homebuyers, knowledge, behavior, and everyday practices.

Upon approval from the Contract Manager, provide a draft and final report in both hard copy and electronic formats, of all campaign and partnership development plans, including an Executive Summary, performance measures, advertising materials, media plan with reach, frequency and total impressions of proposed media, branding and creative strategies in a format to be provided by the Contract Manager.

### **Task 4 – Campaign Implementation**

The campaign concept development, testing, production, implementation and evaluation will support the NSHP goals and objectives. Market research, campaign development and testing activities are all elements of developing a campaign strategy and marketing plan. The marketing plan will constitute a blueprint and action plan to implement the statewide public awareness campaign. Prior to initiation of each work statement task, the Contractor shall consult with the Contract Manager to discuss any technical or other issues associated with the task.

The Contractor's work under this task will include, but not be limited to the following:

- Identifying the rationale and justification for each strategic component of the campaign, such as placing advertising in magazines, Internet, TV, radio, etc. and identifying the methodology

## Section IV – Scope of Work

for evaluating the effectiveness for each component. In addition, the Contractor will identify the specific benefits of each deliverable outlined, complete with measurement methodology and a detailed report of the actual benefits achieved upon successful implementation of the deliverables.

- Identifying a method for incorporating flexibility into the campaign to respond quickly to changing market and regulatory conditions.
- Assessing awareness of the campaign and its messages.
- Evaluating the cost efficiency of campaign activities.
- Assessing changes in attitudes and actions that result from the campaign.

Upon approval from the Contract Manager, provide a draft and final report in both hard copy and electronic formats, of all campaign implementation plans, including an Executive Summary, a detailed analysis of media that ran comparing to planned media, with actual media buy reports and affidavits, timeframes, target audiences, advertising materials, and branding and creative materials in a format to be provided by the Contract Manager.

### **Deliverables and Due Dates**

The Contractor will prepare and submit the following to the Contract Manager:

- Monthly Progress Reports
- Draft and Final Contract Reports

### **General Requirements**

Prior to initiation of each task, the Contractor shall consult with the Contract Manager to discuss any technical or other issues associated with the tasks. Drafts of all work products, including survey instruments, advertising collateral, articles or web content, brochures, posters, etc., must be reviewed and approved by the Contract Manager prior to becoming final. Details of these requirements, such as task details, format, and schedules, will be developed in coordination with the Contract Manager and specified in the contract that results from this solicitation.



## Section V – Hypothetical Situation

Bidders shall include a concise analysis of the issues affecting the use of solar photovoltaic systems on new homes in California, including marketing opportunities and obstacles as they relate to this campaign. This is an opportunity to demonstrate Bidder's familiarity with the issues related to promoting new solar powered homes, as well as an ability to become knowledgeable and identify key factors. This analysis should be the basis for Bidder's proposed work plan under the contract. Maximum length: three (3) pages, to be submitted in the following format:

Paper, 8 ½ x 11

Margins, 1" on each side

Font size, minimum 12 points

.

## Section VI – Evaluation Criteria

### How the Proposal Will be Scored

The Evaluation Committee will award points for the technical criteria based on the following considerations.

### Point Scale

0-1 Points	<ul style="list-style-type: none"><li>✓ The response is not in substantial accord with the RFP requirements.</li><li>✓ Has a potential significant effect on the amount paid or net cost to the State or the quality or quantity of the product and/or service.</li><li>✓ Provides an advantage to one competitor over the other competitors. For example, not paying minimum wages.</li></ul>
2-4 Points	<ul style="list-style-type: none"><li>✓ The proposal states a requirement, but offers no explanation of how or what will be accomplished.</li><li>✓ Proposal does not completely respond to the criteria. Information presented does not provide a good understanding of Bidder's intent, does not give detailed information requested by the RFP, or does not adequately support the proposal.</li><li>✓ The response contains a technical deficiency which is an inaccurate statement or reference concerning the how, what, where, or when, which is part of an overall statement or description.</li></ul>
5-6 Points	<ul style="list-style-type: none"><li>✓ Satisfies the minimum requirements and describes generally how and/or what will be accomplished.</li><li>✓ Provides an average understanding of the Bidder's response to the RFP.</li></ul>
7-8 Points	<ul style="list-style-type: none"><li>✓ Response satisfies the minimum requirements and specifically describes how and/or what will be accomplished in an exemplary manner, using sample products and illustrative materials (i.e. diagrams, charts, graphs, etc.).</li><li>✓ A response which gives a clear and detailed understanding of the Bidder's intent. Response presents a persuasive argument supporting the proposal.</li></ul>
9-10 Points	<ul style="list-style-type: none"><li>✓ Exceeds the minimum requirements and specifically describes how and/or what will be accomplished in a superior manner, both quantitatively and qualitatively, using sample products and illustrative materials (i.e., diagrams, charts, graphs, etc.).</li><li>✓ Outstanding response with clear, detailed and relevant information exceeding the information requested. Response presents a compelling argument supporting the proposal.</li></ul>

## Section VI – Evaluation Criteria

### Preference Points

A Bidder may qualify for any or all preference categories. Qualifying Proposals will receive preference points of five percent (5%) for each applicable category. The sum of the Bidder's subtotal and preference points will constitute the Bidders total score. Proposals will be ranked based on the Bidders total score.

### Criteria for Evaluation

#### TECHNICAL EVALUATION CRITERIA WORKSHEET

Technical Evaluation Criteria	Points	Weight Factors (1-5)	Scored Points	Weighted Score
<b>1. Approach to Tasks in Scope of Work</b>				
<b>a. Strategic Approach</b> Completeness and thoroughness of the proposal (addresses all of the tasks defined). Recommended research plan, media plan and creative tactics. Proposed media relations and event tactics. Other innovative tactics recommended. Timeline reasonableness and thoroughness.	0 to 10	5		
<b>b. Measurability of Outcomes</b> Ability to assess success of proposed project and reasonableness of proposed performance measures. Ability to develop meaningful, relevant, and achievable performance measures.	0 to 10	3		
<b>2. Bidder's Qualifications</b>				
<b>a. Demonstrates efficient contract management and administrative methods, provides an appropriate and effective contract management team with experience in the field of communications, public relations, social or cause marketing, advertising, public information or closely related disciplines.</b>	0 to 10	4		
<b>3. Cost Minimization</b>				
<b>a. Demonstrates a policy to reduce cost (including travel cost) to the state.</b>	0 to 10	2		
<b>4. Project Team Relevant Experience and Qualifications</b>				
<b>a. Relevant project team qualifications as they apply to performing the tasks described in the scope of work.</b>	0 to 10	2		

## Section VI – Evaluation Criteria

b. Project organization and efficient use of staff (using appropriate classifications for tasks in scope of work.)	0 to 10	1		
c. Strength and relevance of references.	0 to 10	1		
<b>5. Examples of Prior Work</b>				
a. Ability to deliver relevant, meaningful partnerships and implement advertising, media relations, social marketing, research, and public affairs programs.	0 to 10	3		
b. Relevance and quality of prior work.	0 to 10	2		
<b>6. Hypothetical Situation</b>				
a. Understanding of environment and energy markets and solar issues.	0 to 10	1		
b. Ability to distill relevant issues and pinpoint opportunities and obstacles.	0 to 10	2		
<b>7. Overall Value of Project</b>				
a. Ability to leverage client's status as a public agency engaged in meaningful environmental and energy related work to encourage maximum assistance from partners and media.	0 to 10	3		
b. Value of bonus media (dollar equivalent) (Form B-2).	0 to 10	3		
c. Ability to deliver measured outcomes.	0 to 10	3		
<b>8. Cost Summary</b>				
a. The proposal clearly and adequately presents the balance of project funds allocated to contract management, research and development relative to the funds allocated to campaign implementation.	0 to 10	4		
b. Demonstrates policies that reduce costs (including travel costs) to the state.	0 to 10	4		
c. The proposal clearly and adequately presents the key personnel and sub-contractors assigned to the project for the appropriate number of hours and functions to accomplish the activities described in the scope of work.	0 to 10	3		
d. The proposal clearly defines how the costs are allocated within the budget and how the contract is leveraged to gain maximum reach and effectiveness to each of the target audiences.	0 to 10	3		
e. Demonstrates a policy to reduce the standard advertising agency commission from 15% in the proposed budget. (Form B-2)	0 to 10	3		

## Section VI – Evaluation Criteria

Evaluator's Subtotal (sum of weighted scores)	
All Evaluators' Subtotal scores will be averaged to yield Bidder's Subtotal	
Minimum Points Required to Pass Technical Proposal (70%)	350
Maximum Points Available for Technical Proposal	500
<b><u>Bidder's Total</u></b>	

Minimum points required to participate in Presentations: 350 (70%)

Proposals not attaining a minimum score from the Technical section will be eliminated from further competition.

### **PRESENTATION EVALUATION CRITERIA WORKSHEET**

The following criteria will be used for scoring the interview/oral presentations:

<b><i>Presentation Evaluation Criteria</i></b>	<b>Points</b>	<b>Weight Factors (1-5)</b>	<b>Scored Points</b>	<b>Weighted Score</b>
1. Demonstrated knowledge of communications, public relations, social or cause marketing, advertising, public information or closely related disciplines.	0 to 10	2		
2. Demonstrated knowledge of quality and creativity for the likelihood of achieving campaign objectives, effectiveness and suitability of approach.	0 to 10	3		
3. Bidder's ability to integrate their ideas into NHSP's objectives.	0 to 10	3		
4. Response to Evaluation Committee's questions pertaining to the presentation.	0 to 10	1		
5. Professionalism of presentation.	0 to 10	1		

Evaluator's Subtotal (sum of weighted scores)	
All Evaluators' Subtotal scores will be averaged to yield Bidder's Subtotal	
Minimum Points Required to Pass Presentation (70%)	70
Maximum Points Available for Presentation	100
<b><u>Bidder's Total</u></b>	

Total possible points for both Technical and Presentation sections: 600

## Section VI – Evaluation Criteria

### TOTAL SCORE WORKSHEET

<b>TOTAL SCORE</b>	<b>Total Points</b>
<b>Technical Evaluation- MAX 500</b>	
<b>Presentation -MAX 100</b>	
<b>GRAND TOTAL</b> (Technical Evaluation + Presentation + Cost Evaluation)	

**Grand total maximum points possible = 600 points**

# ATTACHMENT 1

STATE OF CALIFORNIA

CALIFORNIA ENERGY COMMISSION  
Contracts Office

## CONTRACTOR STATUS FORM

Rev 3/03

Contractor's Name \_\_\_\_\_

County \_\_\_\_\_

Address \_\_\_\_\_

Federal Employer ID

# \_\_\_\_\_

Phone

# \_\_\_\_\_

FAX

# \_\_\_\_\_

### STATUS OF CONTRACTOR PROPOSING TO DO BUSINESS:

- ☐ Individual (Sole Proprietor)    ☐ Limited Partnership    ☐ General Partnership  
☐ Corporation    ☐ Limited Liability Company    ☐ Other

### INDIVIDUAL

If a sole proprietorship, state the true name of sole proprietor: \_\_\_\_\_

### PARTNERSHIP

If a partnership, list each partner, including limited partners, stating their true name and their interest in the partnership: \_\_\_\_\_

### CORPORATION

If a corporation, place and date of incorporation: \_\_\_\_\_

Date corporation was authorized by Sect. of State: \_\_\_\_\_

President: \_\_\_\_\_ Vice President: \_\_\_\_\_

Secretary: \_\_\_\_\_ Treasurer: \_\_\_\_\_

Agent for service of process and address if different from above: \_\_\_\_\_

### LIMITED LIABILITY COMPANY

If a Limited Liability Company, date LLC was authorized by the Secretary of State: \_\_\_\_\_

Name(s) of manager(s) \_\_\_\_\_

Agent for service of process and address if different from above: \_\_\_\_\_

### SMALL BUSINESS PREFERENCE

Are you claiming preference as a small business? ☐ YES – Attach approval letter from Office of Small and Minority Business.  
☐ NO

Date you filed for small business preference: \_\_\_\_\_ Your small business ID number: \_\_\_\_\_

### OTHER

Explain: \_\_\_\_\_

\_\_\_\_\_

NOTE: This form must be completed or your proposal may be rejected.

## California Disabled Veteran Business Enterprise Program Requirements

(REV. 9-15-03)

**AUTHORITY.** The Disabled Veteran Business Enterprise (DVBE) Participation Goal Program for state contracts is established in Public Contract Code (PCC), Section 10115 et seq., Military and Veterans Code, Section 999 et seq. and California Code of Regulations, Title 2 (2CCR), Section 1896.60 et seq.

**The minimum DVBE participation percentage is 3% for this solicitation unless another percentage is specified in the solicitation.**

**INTRODUCTION.** The bidder must document at least one of the options (A, B or C) in this document to comply with this solicitation's DVBE program requirements. Bids or proposals (hereafter called "bids") that fail to fully document one of the DVBE program requirements options shall be considered non-responsive and ineligible for award.

All information submitted by the intended awardee to comply with this solicitation's DVBE requirements will be verified by the State. If evidence of an alleged violation is found during the verification process, the State shall initiate an investigation with this information in accordance with the requirements of the Public Contract Code, Section 10115, et seq. and the Military and Veterans Code, Section 999 et seq. and follow the investigatory procedures required by the California Code of Regulations, Section 1896.80.

Only State of California, Office of Small Business and DVBE Certification certified DVBEs who perform a commercially useful function relevant to this solicitation may be used to satisfy the DVBE program requirements. The criteria for performing a commercially useful function are contained on page 5, Resources & Information and California Code of Regulations, Title 2, Section 1896.61(l). Verify each DVBE subcontractor's/supplier's certification with the Office of Small Business and DVBE Certification Section to ensure DVBE eligibility.

<p><b>To meet the DVBE program requirements, bidders must complete and fully document at least one of the following compliance options:</b></p>
<p><b>Option A - Commitment to full DVBE participation</b> - For a bidder who is a DVBE or who is able to meet the commitment to use identified DVBE(s) to fulfill the full DVBE participation goal.</p>
<p><b>Option B - Good Faith Effort</b> - For a bidder documenting its completed effort, made prior to the bid due date, to obtain DVBE participation that may result in partial or no DVBE participation.</p>
<p><b>Option C - Business Utilization Plan</b> - For a bidder using an annual plan (subject to approval) to satisfy DVBE participation requirements. Applies only to solicitations for goods and information technology.</p>

**PLEASE READ ALL INSTRUCTIONS CAREFULLY.** These instructions contain information about the DVBE program requirements, bidder responsibilities, and requirements for performing and documenting each of the three available options as detailed below. Bidders are responsible for thorough review and compliance with these instructions. Document your option selection on the attached STD Form 840, Documentation of Disabled Veteran Business Enterprise Program Requirements.



**OPTION A – COMMITMENT** -- Commit to meet or exceed the DVBE participation requirement in this solicitation by either Method A1 or A2. Bidders must document DVBE participation commitment by completing and submitting the attached STD 840. Failure to complete and submit STD 840 (Side 1) as instructed shall render your bid non-responsive.

The bidder must provide, prior to contract award, a written agreement signed by the bidder and each proposed DVBE subcontractor. The written agreement will include the DVBE scope of work, work to be performed by the DVBE, term of intended subcontract with the DVBE, anticipated dates the DVBE will perform required work, rate and conditions of payment, total amount of contract to be paid to the DVBE, and the percentage of the entire contract that will be awarded to the DVBE, with each DVBE subcontractor. If this information is contained in the bidder's DVBE written agreement of intent, the agreement may be attached to the STD 840. If further verification is necessary, the state will obtain additional information to verify the above requirements.

**Method A1. Certified DVBE bidder:**

- a. Commit to performing at least 3% of the contract bid amount (unless otherwise specified) with your firm or in combination with other DVBE(s).
- b. Document DVBE participation on STD 840 (Side 1) and attach a copy of all applicable certifications.
- c. A DVBE bidder working in combination with other DVBEs shall be requested to submit proof of its commitment by submitting a written agreement with the DVBE(s) identified in its bid's STD 840. When requested, the written agreement must be submitted to the address or facsimile number specified and within the timeframe identified in the notification. Failure to submit the requested written agreement as specified may be grounds for bid rejection.

**Method A2. Non-DVBE bidder:**

- a. Commit to using certified DVBE(s) for at least 3% (unless otherwise specified) of the bid amount.
- b. When a bidder commits to less than the required 3% DVBE participation or its commitment may fall below 3% if specific line items/groups are not selected for award, then Option B, Good Faith Effort must be completed in addition to Option A, Commitment.
- c. Document DVBE participation on STD 840 (Side 1) and attach a copy of the DVBE's certification.
- d. Prior to contract award, a bidder is to submit proof of their commitment by submitting a written agreement with the DVBE(s) identified in its bid's STD 840. The awarding department contracting official named in this solicitation will contact each listed DVBE, by mail, fax or telephone, for verification of the bidder's submitted DVBE information. The written agreement must be submitted to the address or facsimile number specified and within the timeframe identified in the notification. Failure to submit the written agreement as specified may be grounds for bid rejection.

**OPTION B – GOOD FAITH EFFORT (GFE)** performance and documentation requirements must be completely satisfied prior to bid submission if you are unable to obtain and commit to the full DVBE participation percentage goal (Option A) and do not exercise Option C. Perform and document the following Steps 1 through 5 on both sides of the attached STD 840 form. Failure to perform and document GFE Steps 1 through 5 as instructed, which includes properly completing and submitting both sides of STD 840, shall result in your bid being deemed non-responsive. Step 3, Advertisement, is required unless specifically waived for this solicitation due to time limits imposed by the awarding department.

**Step 1 Awarding Department** - Contact the department's contracting official named in this solicitation to identify interested DVBEs. You must fully document this contact and describe the results on STD 840 (Side 2).

**Step 2 Other State and Federal Agencies, and Local Organizations**

**STATE** Contact the Department of General Services, Procurement Division's (DGS-PD) Office of Small Business and DVBE Certification (OSDC) to obtain a list of certified DVBEs by telephone at (916) 322-5060 for the 24-hour automated telephone system or (916) 375-4940 for the receptionist during normal business hours. This information can also be obtained by searching the online database at <http://www.pd.dgs.ca.gov/smbus>. Begin by selecting Certified Firm Inquiry Services, then search by using either the Keyword Search or the Standard Query options. You must fully document this contact and describe the results on STD 840 (Side 2).

**FEDERAL** Search the U.S. Small Business Administration's (SBA) online database (Pro-Net) at <http://www.pro-net.sba.gov> to identify potential DVBEs. Select these minimum options in the following sequence: select Search Database; select CA under "State"; select Service Disabled Veteran under "Other Ownership Data"; and "Search Using These Criteria" at the page bottom. The database takes a few moments to query, and then your list will appear on your screen. You may select other criteria to focus your search. You must fully document this contact and describe the results on STD 840 (Side 2).

**LOCAL** Contact at least one local DVBE organization to identify DVBEs. For a list of local DVBE organizations, please refer to the DVBE Resource Packet that may be accessed online (<http://www.pd.dgs.ca.gov/smbus> - select "DVBE Resource Packet") or obtain a hardcopy by requesting it from DGS-PD Office of Small Business and DVBE Outreach and Education (see the Resources & Information page). You must fully document your contact with local DVBE organizations and describe the results on STD 840 (Side 2).

**Step 3 Advertisements** are mandatory unless waived by the awarding department.

**CONTENT REQUIREMENTS:** Include all of the following in your advertisement(s): (1) company name; (2) contact name; (3) address; (4) telephone and facsimile (if applicable) numbers; (5) e-mail address (if applicable); (6) the state's solicitation number(s); (7) goods and/or services for which the state is soliciting; (8) the location of the work to be performed; and (9) the State's bid(s) due date and/or your due date for receiving DVBE responses.

**HOW MANY & WHERE TO PUBLISH:** Bidders must publish two (2) ads, one (1) each in a trade paper and a DVBE focus paper unless the paper is dual purpose (fulfilling both trade and focus requirements as defined in California Code of Regulations, Title 2, Section 1896.61(k)), in which case one (1) ad is acceptable. Please see the DVBE Resource Packet for a list of acceptable publications.

**WHEN:** Ads must be published after the solicitation's release date and at least 14 days prior to the bid due date, unless a different time period is expressly established in this solicitation.

**DOCUMENT & SUBMIT:** On STD 840 (Side 2), document the publication name(s) in which you published advertisement(s), the contact name and phone number, and date of publication. Include a copy(ies) of the advertisement(s) with your bid.

**Step 4 Invitations to Participate**

**WHO:** Invite (solicit) DVBEs who can provide relevant goods and/or services to this solicitation to subcontract with you. Conducting Steps 1 through 3 produces a list of DVBEs from which you may choose potential DVBEs subcontractors/suppliers to contact. Bidders are advised to contact as many DVBEs (who provide relevant goods and/or services in the applicable location(s)) as possible. Non-California-certified DVBEs are not eligible -- please refer those DVBEs to the OSDC to learn about certification (see the Resources & Information page for contact information).

**FOR WHAT:** Solicit DVBEs for goods and/or services relevant to the state's solicitation. If you are unable to identify specific portion(s) of the proposed contract to subcontract, the state encourages bidders to avoid making a predetermination that no DVBEs are able to perform without first contacting and soliciting participation from them. This allows DVBEs to respond whether they can or cannot provide any goods or services related to the solicitation, and provides a bidder with responses for consideration.

**HOW TO INVITE & CONTENT REQUIREMENTS:** Written invitations are required. At a minimum, invitations must contain all of the following: (1) company name; (2) contact name; (3) address; (4) phone and facsimile (if applicable) numbers; (5) return e-mail address (if applicable); (6) the state's solicitation number; (7) goods and/or services for which the state is soliciting; (8) location of work; and (9) the State's bid(s) due date and/or your due date for receiving DVBE responses.

**WHEN:** Provide DVBE's with a reasonable time period to receive and respond to your invitation, and to be considered by you for participation as described in Step 5, prior to your bid submission.

**DOCUMENT & SUBMIT:** Bidders must document the completed contacts on STD 840 (Side 1), Section A. Attach additional copies of STD 840A as necessary to list your DVBE contacts. You are required to attach a copy of: (1) each invitation or offer sent by letter, fax or e-mail; and (2) confirmation of transmittal or delivery. Your bid shall be considered non-responsive if it fails to include copies of the written invitations and delivery confirmations.

**Step 5 Consider all responding DVBEs** for contract participation. Consideration must be based on business needs for the contract and the same evaluation criteria must be applied to each potential DVBE subcontractor/supplier offering the same goods and services. You must document on STD 840 (Side 1), Section A any firm(s) selected for participation; or if not selected, the reason for non-selection. Attach additional copies of STD 840A as necessary to list all of your DVBE contacts.

**OPTION C – THE DVBE BUSINESS UTILIZATION PLAN** (BUP) option permits bidders to submit an approved DVBE BUP to satisfy DVBE participation solicitation requirements up to 3%. **DVBE BUPs apply only to solicitations for goods and information technology (IT) goods and services.** DVBE BUPs are a company's commitment to expend a minimum of 3% of its total statewide contract dollars with DVBEs -- this percentage is based on all of its contracts in the State, not just those with the State. DVBE BUPs must be submitted to and approved by the DGS-PD prior to the bid due date. Please call the DGS-PD, Office of Small Business and DVBE Outreach and Education for assistance. Bidders choosing this option must properly complete and submit STD 840 (Side 1) and include a copy of its approval letter with the bid; failure to submit these documents shall render your bid non-responsive.

## RESOURCES AND INFORMATION

For assistance in preparing a responsive participation document, **contact the contracting official at the awarding department for this solicitation.** In accordance with Public Contract Code Section 10115.2(b)(3), bidders must advertise in trade and focus publications unless the requirement is waived. The Department of General Services, Procurement Division (DGS-PD) publishes a list of trade and focus publications to assist bidders in meeting these contract requirements. To obtain this list, please contact the DGS-PD Office of Small Business and DVBE Outreach and Education and request the "DVBE Resource Packet."

### U.S. Small Business Administration (SBA)

*Internet contact only – see instructions for website navigation*

PRONET Database: <http://www.pro-net.sba.gov>

### FOR:

**Service-Disabled Veteran-owned businesses in California**

(Remember to verify each DVBE's California certification.)

**Local Organizations** (see the DVBE Resource Packet available from DGS-PD DVBE Program Section listed below)

### FOR:

**List of potential DVBE subcontractors**

### DGS-PD Office of Small Business and DVBE Certification (OSDC)

707 Third Street, Room 400, West Sacramento, CA 95605

Website: <http://www.pd.dgs.ca.gov/smbus>

24-hour automated information

& document requests: (916) 322-5060

Receptionist: (916) 375-4940

Fax: (916) 375-4950

### FOR:

**Directory of Certified DVBEs  
Certification Applications  
Certification Information  
Certification Status, Concerns**

### DGS-PD Office of Small Business and DVBE Outreach and Education

707 Third Street, 2<sup>nd</sup> Floor, West Sacramento, CA 95605

Voice, 8 am—5 pm: (800) 559-5529

Fax: (916) 375-4597

### FOR:

**DVBE Program Participation Requirements  
DVBE Program Info. and Statewide Policy  
DVBE Resource Packet  
DVBE Business Utilization Plan  
Small Business/DVBE Advocates**

### Advertisement Format Example

This example offers a suggested format that includes required information outlined in Option B, Good Faith Effort, Step 3. You can substitute the applicable information for the bolded, italicized words.

DVBEs are invited to participate as a potential subcontractor/supplier to perform a commercially useful function specific to ***DGS' IFB No. 12345*** for ***fencing materials in Chowchilla.***  
***DVBE responses due to me 1/1/02;***  
***Bids due to the State 1/15/02.***

Contact: ***ABC Company***  
***Jane Doe, General Manager***  
***123 Main Street, Sacramento, CA 95814***  
voice: ***555/555-5555***; fax: ***555/555-5556***  
or e-mail: ***jane.doe@abcco.com***

### Commercially Useful Function Definition

California Code of Regulations, Title 2, § 1896.61(l):

The term "DVBE contractor, subcontractor or supplier" means any person or entity that satisfies the ownership (or management) and control requirements of Section 1896.61(f); is certified in accordance with Section 1896.70; and provides services or goods that contribute to the fulfillment of the contract requirements by performing a commercially useful function. A DVBE contractor, subcontractor or supplier is considered performing a commercially useful function when it meets the following criteria:

(1) The business concern is: responsible for the execution of a distinct element of the work of the contract; carrying out its obligation by actually performing, managing or supervising the work involved; and performing work that is normal for its business services and functions, and

(2) The business concern is not further subcontracting a greater portion of the work than would be expected by normal industry practices.

# DOCUMENTATION OF DISABLED VETERAN BUSINESS ENTERPRISE PROGRAM REQUIREMENTS

STD 840 (REV. 9-15-2003)

**Designation Of Option** Check the appropriate box(es) to indicate the option(s) with which you choose to comply, complete the applicable sections and attach the required supporting documentation. You are advised to read all instructions carefully prior to completing this form. Remember that only California certified DVBEs who can provide related goods and/or services may be used to satisfy these program solicitation requirements.

- ☐ **OPTION A – I commit to meeting the full DVBE contract participation requirement.**  
Complete STD 840, Section A.
- ☐ **OPTION B – I performed and documented a Good Faith Effort (GFE) in an attempt to obtain DVBE participation.**  
Complete STD 840, Section A (for GFE Steps 4 & 5) and STD 840 (REVERSE), Section B (for GFE Steps 1–3).
- ☐ **OPTION C – I submit a copy of my firm's "Notice of Approved DVBE Business Utilization Plan."**

## A. Full information must be provided.

**For contract participation commitment**, at least one DVBE must be listed. DVBEs must perform a commercially useful function. List the specific goods and/or services with the dollar and/or percentage value(s) that the DVBE(s) commit(s) to provide and the DVBE's tier (prime contractor = 0, subcontractor to prime contractor = 1, subcontractor to Tier 1 subcontractor = 2, etc.). If both the estimated dollar amount and percentage are listed, the higher value supercedes. Attach additional pages to list all other DVBE subcontractors/suppliers (you may use STD 840A). During contract performance, all requests for substituting named DVBEs must be made in accordance with the provisions of California Code of Regulations, Title 2, Section 1896.64(c).

**For Good Faith Effort (GFE)**, use this section to document your first completed contacts with (Step 4), and consideration of (Step 5), relevant DVBEs. Business reasons for non-selection must be documented. Attach additional pages to list all other DVBE contacts (you may use STD 840A). Copies of all written invitations and delivery confirmations must also be attached and submitted with the bid.

BOTH SECTIONS MUST BE COMPLETED FOR GOOD FAITH EFFORT AT LEAST ONE DVBE MUST BE NAMED FOR PARTICIPATION	Date Contacted / /	DVBE Company Name (If you are the Prime and a DVBE enter your name, otherwise enter the solicited subcontractor.)			
	DVBE Contact Name & Reference #	Telephone Number ( )	Fax Number ( )	E-mail (if available)	
	Street Address, City, State and Zip Code				
	OR	<input type="checkbox"/> <b>Yes, I am, or I will subcontract with, the listed DVBE to provide the following goods and/or services:</b>			
		Specific Goods and/or Services	Estimated \$ and/or % \$ / %	Tier	
		<input type="checkbox"/> <b>No, I am unable to subcontract with the DVBE for the following business reasons:</b>			
	Date Contacted / /	DVBE Company Name			
	DVBE Contact Name	Telephone Number ( )	Fax Number ( )	E-mail (if available)	
	Street Address, City, State and Zip Code				
	OR	<input type="checkbox"/> <b>Yes, I will subcontract with the listed DVBE to provide the following goods and/or services:</b>			
Specific Goods and/or Services		Estimated \$ and/or % \$ / %	Tier		
<input type="checkbox"/> <b>No, I am unable to subcontract with the DVBE for the following business reasons:</b>					

**ATTACH ADDITIONAL PAGES (OR USE STD 840A) TO LIST ALL OTHER DVBE CONTACTS**

Go to Side 2, Section B to continue Good Faith Effort documentation ⇨

**ADDITIONAL DISABLED VETERAN BUSINESS ENTERPRISE CONTACTS**

STD 840A (EST. 9-15-2003)

- B. Documentation of Good Faith Effort Steps 1, 2 and 3**—Remember to carefully read all instructions prior to completing this form. Please refer to the Resources & Information page for detailed contact information and a sample advertisement format.

**STEP 1. Contact the Awarding Department** (the contracting official, unless another contact is specified) to identify potential DVBE subcontractors/suppliers, **and document this contact as required.**

Date / /	Contact Name	Telephone Number ( )
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Describe Result

**STEP 2. Contact all of the following and document your contacts as required:** Other state and federal agencies and local organizations to identify potential DVBE subcontractors/suppliers.

**Other State Agency** – Procurement Division, Office of Small Business and DVBE Certification (Certification Office)

PHONE CONTACT <b>OR</b> ONLINE SEARCH	Date / /	Telephone Number <b>(916) 322-5060</b> <b>(916) 375-4940</b>	Contact Name	<input type="checkbox"/> I contacted the Certification Office for a list of California certified DVBEs.
	Date / /	Internet Address <b>http://www.pd.dgs.ca.gov/smbus</b>		<input type="checkbox"/> I searched the Certification Office's online database to identify California certified DVBEs.

Describe Result

**Federal Agency** – U.S. Small Business Administration (SBA) online database

Date / /	Internet Address <b>http://www.pro-net.sba.gov</b>	<input type="checkbox"/> I searched the federal online database for California DVBEs.
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Describe Result

**Local DVBE Organizations** – Contact at least one local DVBE organization—refer to the DVBE Resource Packet for a list of acceptable contacts. (**http://www.pd.dgs.ca.gov/smbus** - select “DVBE Resource Packet” )

Date / /	Organization Name	Contact Name	Telephone Number and/or Internet Address ( ) <b>http://www.</b>
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Describe Result

Date / /	Organization Name	Contact Name	Telephone Number and/or Internet Address ( ) <b>http://www.</b>
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Describe Result

**STEP 3. Publish advertisements:** Two (2) advertisements: One (1) ad in an accepted trade paper; and one (1) ad in an accepted DVBE focus paper (please see the DVBE Resource Packet for a list of all accepted publications); unless the paper is dual purpose (fulfilling both trade and focus requirements), in which case one (1) ad is acceptable. **Document this step as required and remember to attach a copy of your advertisement(s).**

<b>Focus Paper Name</b> (list full name)		Contact Name	Telephone Number ( )
Address		Date Ad Published / /	
<b>Trade Paper Name</b> (list full name)		Contact Name	Telephone Number ( )
Address		Date Ad Published / /	

☐ I certify the ad was placed to reach both trade and focus audiences through this one publication.

<b>Trade and Focus Paper Name</b> (list full name)		Contact Name	Telephone Number ( )
Address		Date Ad Published / /	

**ADDITIONAL DISABLED VETERAN BUSINESS ENTERPRISE CONTACTS**

STD 840A (EST. 9-15-2003)

***This document may be used as a continuation from Section A, STD 840 (REV. 9-15-2003)***

Date Contacted / /	DVBE Company Name		
DVBE Contact Name	Telephone Number ( )	Fax Number ( )	E-mail (if available)
Street Address, City, State and Zip Code			

OR	<input type="checkbox"/> <b>Yes, I will subcontract with the listed DVBE to provide the following goods and/or services:</b>		
	Specific Goods and/or Services	Estimated \$ and/or % \$ / %	Tier
	<input type="checkbox"/> <b>No, I am unable to subcontract with the DVBE for the following business reasons:</b>		

Date Contacted / /	DVBE Company Name		
DVBE Contact Name	Telephone Number ( )	Fax Number ( )	E-mail (if available)
Street Address, City, State and Zip Code			

OR	<input type="checkbox"/> <b>Yes, I will subcontract with the listed DVBE to provide the following goods and/or services:</b>		
	Specific Goods and/or Services	Estimated \$ and/or % \$ / %	Tier
	<input type="checkbox"/> <b>No, I am unable to subcontract with the DVBE for the following business reasons:</b>		

Date Contacted / /	DVBE Company Name		
DVBE Contact Name	Telephone Number ( )	Fax Number ( )	E-mail (if available)
Street Address, City, State and Zip Code			

OR	<input type="checkbox"/> <b>Yes, I will subcontract with the listed DVBE to provide the following goods and/or services:</b>		
	Specific Goods and/or Services	Estimated \$ and/or % \$ / %	Tier
	<input type="checkbox"/> <b>No, I am unable to subcontract with the DVBE for the following business reasons:</b>		

Date Contacted / /	DVBE Company Name		
DVBE Contact Name	Telephone Number ( )	Fax Number ( )	E-mail (if available)
Street Address, City, State and Zip Code			

OR	<input type="checkbox"/> <b>Yes, I will subcontract with the listed DVBE to provide the following goods and/or services:</b>		
	Specific Goods and/or Services	Estimated \$ and/or % \$ / %	Tier
	<input type="checkbox"/> <b>No, I am unable to subcontract with the DVBE for the following business reasons:</b>		

**ADDITIONAL DISABLED VETERAN BUSINESS ENTERPRISE CONTACTS**

STD 840A (EST. 9-15-2003) (REVERSE)

Date Contacted / /	DVBE Company Name		
DVBE Contact Name	Telephone Number ( )	Fax Number ( )	E-mail (if available)
Street Address, City, State and Zip Code			

OR	<input type="checkbox"/> <b>Yes, I will subcontract with the listed DVBE to provide the following goods and/or services:</b>		
	Specific Goods and/or Services	Estimated \$ and/or % \$ / %	Tier
	<input type="checkbox"/> <b>No, I am unable to subcontract with the DVBE for the following business reasons:</b>		

Date Contacted / /	DVBE Company Name		
DVBE Contact Name	Telephone Number ( )	Fax Number ( )	E-mail (if available)
Street Address, City, State and Zip Code			

OR	<input type="checkbox"/> <b>Yes, I will subcontract with the listed DVBE to provide the following goods and/or services:</b>		
	Specific Goods and/or Services	Estimated \$ and/or % \$ / %	Tier
	<input type="checkbox"/> <b>No, I am unable to subcontract with the DVBE for the following business reasons:</b>		

Date Contacted / /	DVBE Company Name		
DVBE Contact Name	Telephone Number ( )	Fax Number ( )	E-mail (if available)
Street Address, City, State and Zip Code			

OR	<input type="checkbox"/> <b>Yes, I will subcontract with the listed DVBE to provide the following goods and/or services:</b>		
	Specific Goods and/or Services	Estimated \$ and/or % \$ / %	Tier
	<input type="checkbox"/> <b>No, I am unable to subcontract with the DVBE for the following business reasons:</b>		

Date Contacted / /	DVBE Company Name		
DVBE Contact Name	Telephone Number ( )	Fax Number ( )	E-mail (if available)
Street Address, City, State and Zip Code			

OR	<input type="checkbox"/> <b>Yes, I will subcontract with the listed DVBE to provide the following goods and/or services:</b>		
	Specific Goods and/or Services	Estimated \$ and/or % \$ / %	Tier
	<input type="checkbox"/> <b>No, I am unable to subcontract with the DVBE for the following business reasons:</b>		



# DVBE Program Requirements Supplier Checklist (REV. 9-15-2003)

Please do not submit this checklist with your bid. It is provided for your use only. Checking every box of your elected compliance option does not guarantee that your bid will be evaluated compliant.

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## ☐ **OPTION A: COMMITMENT TO DVBE CONTRACT PARTICIPATION**

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- ☐ STD 840 included with bid
- ☐ DVBE Written Agreement
- ☐ Designated the Commitment Option – Checked the first box
- ☐ Listed at least one California certified DVBE subcontractor
- ☐ Checked the box(es) for “Yes ...”
- ☐ Listed specific goods and/or services DVBE(s) agrees to provide
- ☐ Proposed DVBE contract performance is a “commercially useful function” relevant to the contract
- ☐ Listed the estimated dollar amount and/or percentage of contract for the DVBE's participation
- ☐ Proposed DVBE participation meets the 3% requirement (unless a different percentage is specified)
- ☐ Attached a copy of the DVBE's certification letter from the Department of General Services

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## ☐ **OPTION B: GOOD FAITH EFFORT (GFE)**

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- ☐ STD 840 included with bid
- ☐ Designated the GFE Option – Checked the second box
- ☐ (Step 4) Listed all DVBEs contacted and invited to perform on the proposed contract
  - ☐ Confirmed that listed DVBEs are California certified
  - ☐ Attached copies of the invitations sent to the listed DVBEs
  - ☐ Invitations included the required contact information
  - ☐ Attached copies of the delivery confirmations for invitations to DVBEs (e.g. mail receipts, fax confirmations, etc.)
- ☐ (Step 5) Checked the “No” boxes and listed the business reasons for non-selection of DVBEs contacted
- ☐ (Step 1) Contacted the Awarding Department and listed contact and results
- ☐ (Step 2) Contacted Other State agency (Office of Small Business and DVBE Certification) and listed the contact and results
- ☐ (Step 2) Searched the Federal Pro-net internet database and noted the results
- ☐ (Step 2) Contacted Local DVBE Organization(s) and listed the contact and results
- ☐ (Step 3) Advertised – IF NOT WAIVED
  - Listed full information for the advertisement(s) and publication(s)  
[2 ads in one trade and in one DVBE focus publication; **OR** 1 ad in one dual-purpose publication]
  - ☐ Attached a copy of the advertisement(s)
  - ☐ The advertisement(s) were published at least 14 days prior to the bid due date
  - ☐ The advertisement(s) included my required contact information

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## ☐ **OPTION C: BUSINESS UTILIZATION PLAN (BUP)**

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- ☐ **Prior to the bid due date** -- Submitted a BUP to DGS-PD and received approval
- ☐ STD 840 included with bid
- ☐ Designated the BUP Option – Checked the third box
- ☐ Attached a copy of the BUP Approval letter from DGS-PD

**Attachment 3****Contractor Certification Clauses****CERTIFICATION**

I, the official named below, CERTIFY UNDER PENALTY OF PERJURY that I am duly authorized to legally bind the prospective Contractor to the clause(s) listed below. This certification is made under the laws of the State of California.

<i>Contractor/Bidder Firm Name (Printed)</i>		<i>Federal ID Number</i>
<i>By (Authorized Signature)</i>		
<i>Printed Name and Title of Person Signing</i>		
<i>Date Executed</i>	<i>Executed in the County of</i>	

**CONTRACTOR CERTIFICATION CLAUSES**

1. **STATEMENT OF COMPLIANCE**: Contractor has, unless exempted, complied with the nondiscrimination program requirements. (Gov. Code §12990 (a-f) and CCR, Title 2, Section 8103) (Not applicable to public entities.)

2. **DRUG-FREE WORKPLACE REQUIREMENTS**: Contractor will comply with the requirements of the Drug-Free Workplace Act of 1990 and will provide a drug-free workplace by taking the following actions:

a. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations.

b. Establish a Drug-Free Awareness Program to inform employees about:

- 1) the dangers of drug abuse in the workplace;
- 2) the person's or organization's policy of maintaining a drug-free workplace;
- 3) any available counseling, rehabilitation and employee assistance programs; and,
- 4) penalties that may be imposed upon employees for drug abuse violations.

c. Every employee who works on the proposed Agreement will:

- 1) receive a copy of the company's drug-free workplace policy statement; and,
- 2) agree to abide by the terms of the company's statement as a condition of employment on the Agreement.

Failure to comply with these requirements may result in suspension of payments under the Agreement or termination of the Agreement or both and Contractor may be ineligible for award of any future State

agreements if the department determines that any of the following has occurred: the Contractor has made false certification, or violated the certification by failing to carry out the requirements as noted above. (Gov. Code §8350 et seq.)

3. NATIONAL LABOR RELATIONS BOARD CERTIFICATION: Contractor certifies that no more than one (1) final unappealable finding of contempt of court by a Federal court has been issued against Contractor within the immediately preceding two-year period because of Contractor's failure to comply with an order of a Federal court, which orders Contractor to comply with an order of the National Labor Relations Board. (Pub. Contract Code §10296) (Not applicable to public entities.)

4. CONTRACTS FOR LEGAL SERVICES \$50,000 OR MORE- PRO BONO REQUIREMENT: Contractor hereby certifies that contractor will comply with the requirements of Section 6072 of the Business and Professions Code, effective January 1, 2003.

Contractor agrees to make a good faith effort to provide a minimum number of hours of pro bono legal services during each year of the contract equal to the lessor of 30 multiplied by the number of full time attorneys in the firm's offices in the State, with the number of hours prorated on an actual day basis for any contract period of less than a full year or 10% of its contract with the State.

Failure to make a good faith effort may be cause for non-renewal of a state contract for legal services, and may be taken into account when determining the award of future contracts with the State for legal services.

5. EXPATRIATE CORPORATIONS: Contractor hereby declares that it is not an expatriate corporation or subsidiary of an expatriate corporation within the meaning of Public Contract Code Section 10286 and 10286.1, and is eligible to contract with the State of California.

6. SWEATFREE CODE OF CONDUCT:

a. All Contractors contracting for the procurement or laundering of apparel, garments or corresponding accessories, or the procurement of equipment, materials, or supplies, other than procurement related to a public works contract, declare under penalty of perjury that no apparel, garments or corresponding accessories, equipment, materials, or supplies furnished to the state pursuant to the contract have been laundered or produced in whole or in part by sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor, or with the benefit of sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor. The contractor further declares under penalty of perjury that they adhere to the Sweatfree Code of Conduct as set forth on the California Department of Industrial Relations website located at [www.dir.ca.gov](http://www.dir.ca.gov), and Public Contract Code Section 6108.

b. The contractor agrees to cooperate fully in providing reasonable access to the contractor's records, documents, agents or employees, or premises if reasonably required by authorized officials of the contracting agency, the Department of Industrial Relations, or the Department of Justice to determine the contractor's compliance with the requirements under paragraph (a).

7. DOMESTIC PARTNERS: For contracts executed or amended after July 1, 2004, the contractor may elect to offer domestic partner benefits to the contractor's employees in accordance with Public Contract Code section 10295.3. However, the contractor cannot require an employee to cover the costs of providing any benefits which have otherwise been provided to all employees regardless of marital or domestic partner status.

## DOING BUSINESS WITH THE STATE OF CALIFORNIA

The following laws apply to persons or entities doing business with the State of California.

1. CONFLICT OF INTEREST: Contractor needs to be aware of the following provisions regarding current or former state employees. If Contractor has any questions on the status of any person rendering services or involved with the Agreement, the awarding agency must be contacted immediately for clarification.

Current State Employees (Pub. Contract Code §10410):

- 1). No officer or employee shall engage in any employment, activity or enterprise from which the officer or employee receives compensation or has a financial interest and which is sponsored or funded by any state agency, unless the employment, activity or enterprise is required as a condition of regular state employment.
- 2). No officer or employee shall contract on his or her own behalf as an independent contractor with any state agency to provide goods or services.

Former State Employees (Pub. Contract Code §10411):

- 1). For the two-year period from the date he or she left state employment, no former state officer or employee may enter into a contract in which he or she engaged in any of the negotiations, transactions, planning, arrangements or any part of the decision-making process relevant to the contract while employed in any capacity by any state agency.
- 2). For the twelve-month period from the date he or she left state employment, no former state officer or employee may enter into a contract with any state agency if he or she was employed by that state agency in a policy-making position in the same general subject area as the proposed contract within the 12-month period prior to his or her leaving state service.

If Contractor violates any provisions of above paragraphs, such action by Contractor shall render this Agreement void. (Pub. Contract Code §10420)

Members of boards and commissions are exempt from this section if they do not receive payment other than payment of each meeting of the board or commission, payment for preparatory time and payment for per diem. (Pub. Contract Code §10430 (e))

2. LABOR CODE/WORKERS' COMPENSATION: Contractor needs to be aware of the provisions which require every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions, and Contractor affirms to comply with such provisions before commencing the performance of the work of this Agreement. (Labor Code Section 3700)

3. AMERICANS WITH DISABILITIES ACT: Contractor assures the State that it complies with the Americans with Disabilities Act (ADA) of 1990, which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA. (42 U.S.C. 12101 et seq.)

4. CONTRACTOR NAME CHANGE: An amendment is required to change the Contractor's name as listed on this Agreement. Upon receipt of legal documentation of the name change the State will process the amendment. Payment of invoices presented with a new name cannot be paid prior to approval of said amendment.

**5. CORPORATE QUALIFICATIONS TO DO BUSINESS IN CALIFORNIA:**

a. When agreements are to be performed in the state by corporations, the contracting agencies will be verifying that the contractor is currently qualified to do business in California in order to ensure that all obligations due to the state are fulfilled.

b. "Doing business" is defined in R&TC Section 23101 as actively engaging in any transaction for the purpose of financial or pecuniary gain or profit. Although there are some statutory exceptions to taxation, rarely will a corporate contractor performing within the state not be subject to the franchise tax.

c. Both domestic and foreign corporations (those incorporated outside of California) must be in good standing in order to be qualified to do business in California. Agencies will determine whether a corporation is in good standing by calling the Office of the Secretary of State.

6. RESOLUTION: A county, city, district, or other local public body must provide the State with a copy of a resolution, order, motion, or ordinance of the local governing body which by law has authority to enter into an agreement, authorizing execution of the agreement.

7. AIR OR WATER POLLUTION VIOLATION: Under the State laws, the Contractor shall not be: (1) in violation of any order or resolution not subject to review promulgated by the State Air Resources Board or an air pollution control district; (2) subject to cease and desist order not subject to review issued pursuant to Section 13301 of the Water Code for violation of waste discharge requirements or discharge prohibitions; or (3) finally determined to be in violation of provisions of federal law relating to air or water pollution.

8. PAYEE DATA RECORD FORM STD. 204: This form must be completed by all contractors that are not another state agency or other governmental entity.

S:\ADMIN\HOMEPAGE\CCC\CCC-1005.doc

**Attachment 4**  
**CUSTOMER REFERENCES**

STATE OF CALIFORNIA

CALIFORNIA ENERGY COMMISSION  
CONTRACTS OFFICE

**CUSTOMER REFERENCES**

**ATTACHMENT 4**

Provide a minimum of 3 references, use additional pages as needed.

Reference #1

Name of Organization	
Address	
Contact Name	
Contact Title	
Contact Phone Number	
Describe the services and products your firm provided to the organization.	

## ATTACHMENT 5

### STANDARD AGREEMENT

sTD. 213 (NEW 09/01)

AGREEMENT NUMBER

1. This Agreement is entered into between the State Agency and the Contractor named below

STATE AGENCY'S NAME

State Energy Resources Conservation and Development Commission (Commission)

CONTRACTOR'S NAME

To be completed by Commission

2. The term of this

Agreement is: To be completed by Commission

3. The maximum amount

of this Agreement is: \$ To be completed by Commission

4. The parties agree to comply with the terms and conditions of the following exhibits which are by this reference made a part of the Agreement:

Exhibit A – Scope of Work		Pages
Exhibit B – Budget Detail and Payment Provision		Pages
Exhibit C* – General Terms and Conditions	GTC 1005 or GIA 101 (Number)	1-1-03 (Dated)
Exhibit D – Special Terms and Conditions (Attached hereto as part of this agreement)		Pages
Exhibit E – Additional Provisions		Pages
Exhibit F – Contacts		Page

Items shown with an Asterisk (\*), are hereby incorporated by reference and made part of this agreement as if attached hereto.  
These documents can be viewed at [www.dgs.ca.gov/contracts](http://www.dgs.ca.gov/contracts)

**IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto.**

#### CONTRACTOR

CONTRACTOR'S NAME (If other than an individual, state whether a corporation, partnership, etc.)

To be completed by Commission

BY (Authorized Signature)

—

DATE SIGNED (Do not type)

PRINTED NAME AND TITLE OF PERSON SIGNING

ADDRESS

To be completed by Commission

#### STATE OF CALIFORNIA

AGENCY NAME

State Energy Resources Conservation and Development Commission (Commission)

BY (Authorized Signature)

—

DATE SIGNED (Do not type)

PRINTED NAME AND TITLE OF PERSON SIGNING

Cheryl Raedel, Contracts Office Manager

ADDRESS

1516 Ninth Street, Sacramento, CA 95814

*California Department of General  
Services Use Only*

☐ Exempt per:

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### EXHIBIT A

#### SCOPE OF WORK

##### PURPOSE

The goals of the public awareness campaign are three-fold: 1) educate new home buyers and builders, trade organizations and industry groups, and financial institutions on the value of new homes that incorporate high levels of energy efficiency and high performing solar systems, 2) to encourage builders to incorporate high levels of energy efficiency and high performing solar systems as standard features on new production homes, and 3) to encourage home buyers to ask for high levels of energy efficiency and solar photovoltaic systems when purchasing new production homes.

##### **Task 1 – Contract Management and Reporting**

The Contractor shall work cooperatively with the Contract Manager to ensure that the contract proceeds on schedule and within budget. The Contractor will be a sole organization with primary administrative, technical and legal responsibility for all of the work within the Scope of Work, and shall manage the work of the entire project team (including subcontractors). Prior to initiation of each work statement task, the Contractor shall consult with the Contract Manager to discuss any technical or other issues associated with the task. The Contractor will provide the following, including, but not limited to:

- Respond to information requests or direction from the Contract Manager.
- Attend program support and project-related development meetings and hold telephone discussions regarding project management issues, as directed by the Contract Manager. Preparing a monthly progress report that summarizes all activities conducted by the Contractor and team. This includes a summary of agreement expenditures to date. The monthly progress report is due to the Contract Manager within 15 working days after the end of the month. The Contract Manager will specify the report format and the number of copies to be submitted. All monthly progress reports will coincide with the invoice period. Each monthly progress report must coincide with and accompany monthly invoices. Each monthly progress report will include:
  - ◇ The status of scheduled, on-going or completed work during the reporting period or since the previous report.
  - ◇ A discussion of any technical, scheduling, budgeting or other problems encountered during the report period.
  - ◇ A description of project expenditures and status of the contract budget.
  - ◇ Any draft or final work products developed during the reporting period, such as articles, brochures, advertisements, videotapes, web content, etc.
- Preparing at the conclusion of the contract, the Contractor shall provide a comprehensive final report, and a brief summary of the report, to the Contract Manager. The report shall be prepared in language easily understood by the public. A draft of the final report must be reviewed and approved by the Contract Manager prior to becoming final. The draft report must be received by the Contract Manager 45 days prior to the termination date indicated in the term of the contract. The Contractor shall provide 10 copies of the final report, a reproducible camera-ready master in black ink, and an electronic copy in a format to be determined by the Contract Manager. The Contractor shall meet with the Energy Commission to present the findings, conclusions, and recommendations. The final report must be delivered to the Contract Manager 30 days before the termination date indicated in the term of the contract. The Final Report shall include but is not limited to an analysis of:



## ATTACHMENT 5

- ◇ Work accomplished under the contract.
- ◇ Effectiveness of this contract in meeting the program goals and objectives.
- ◇ Recommendation for future activities to improve the effectiveness of the program.

### **Task 2 – Market Research**

Market research is needed to analyze and identify California home buyers who are most likely to seek higher levels of energy efficiency and solar photovoltaic systems when purchasing new homes, and to analyze and identify ways for encouraging home builders to incorporate these high levels of energy efficiency and solar photovoltaic systems as standard features in new housing developments.

The proposal shall include an assessment of what market data is available, what data is needed, and a plan for collecting, analyzing and translating data into usable information. Market research results shall identify what segments of the market will be most effective to target. Prior to initiation of each work statement task, the Contractor shall consult with the Contract Manager to discuss any technical or other issues associated with the task.

The Contractor's work under this task will include, but not be limited to the following:

- Conducting research and market analysis to specify target audiences, obstacles of past programs and home buyer and builder needs, including an evaluation of prior Energy Commission renewable program marketing material, past and current meetings from the California Energy Commission's NSHP Web site, and all other renewable marketing research that has been done by other groups.
- Assessing awareness and knowledge of solar energy, its benefits and home buyer and builder options for adopting solar energy technologies.
- Defining the most promising market segments.
- Creating market assessment reports with strategies for increasing interest in purchasing solar PV homes and increasing participation of builders in NSHP.
- Facilitating and conducting all aspects of home buyer and builder focus groups in up to four regional California markets. The focus groups shall address pertinent topics, including Zero Energy Homes (ZEH), using detailed knowledge of the psychological, financial and emotional barriers affecting the decision of home buyers in whether or not to purchase new solar homes.

Upon approval from the Contract Manager, the Contractor shall provide a draft and final report in both hard copy and electronic formats, of all research conducted, including an Executive Summary, in a format to be provided by the Contract Manager.

### **Task 3 - Campaign and Partnership Development**

Market research and analysis shall provide insight into the current level of home buyer and builder awareness of solar energy in new home subdivisions and guide development of an effective public awareness campaign, including raising awareness, increasing home buyer and builder knowledge and ultimately change attitudes and behavior. Campaign development shall be based on research results and will determine the marketing plan, message(s), brand identity, and marketing materials. Campaign development shall be tested to help identify the most effective messages and strategies to reach the target audiences, and determine the home buyer and builder obstacles. Prior to initiation of each work statement

## ATTACHMENT 5

task, the Contractor shall consult with the Contract Manager to discuss any technical or other issues associated with the task.

The Contractor's work under this task will include, but not be limited to:

- Proposing a creative and compelling marketing plan for conducting a NSHP public awareness campaign, which furthers the ensuring that campaign content is consistent with and complements current NSHP activities, goals, and objectives.
- Assessing awareness of the advertising campaign and its message(s).
- Assessing changes in attitudes and actions that result from the campaign.
- Developing effective and pre-tested messages and strategies for the target audiences.
- Determining the most effective media placement.
- Determining a cost-effective media mix of television, radio, print, outdoor and other advertising and promotion to best reach the target audiences, including bonus media spots. The Contractor shall identify and summarize the dollar equivalent of bonus media, to the extent it is recommended.
- Developing advertising content that furthers the activities, goals, and objectives of the NSHP.
- Developing a proposed co-op advertising strategy with qualified builders.
- Coordinating with one or more Energy Commission consultants or partners to strengthen the Energy Commission's current activities and increase overall effectiveness in reaching partnership goals.
- Developing a "tool-kit" of advertising materials to be tested on home buyers. This marketing and educational tool-kit will be designed to demonstrate to builders, housing stakeholders, and buyers why they should incorporate solar energy systems in new homes.
- Facilitating all aspects of presenting the draft marketing plan to stakeholders (advisory group, ZEH builders, California Building Industry Association, and other qualified builders) to validate and refine marketing messages and materials. Presentation methods and locations will be determined by the Contract Manager.
- Detailing how the campaign's effectiveness will be measured. Specifically, the Contractor will need to propose and establish a process for evaluating the effectiveness of the campaign based on "outcome" measures, as opposed to "output" measures, as they apply to builders and homebuyers, knowledge, behavior, and everyday practices.

Upon approval from the Contract Manager, provide a draft and final report in both hard copy and electronic formats, of all campaign and partnership development plans, including an Executive Summary, performance measures, advertising materials, media plan with reach, frequency and total impressions of proposed media, branding and creative strategies in a format to be provided by the Contract Manager.

### **Task 4 – Campaign Implementation**

The campaign concept development, testing, production, implementation and evaluation will support the NSHP goals and objectives. Market research, campaign development and testing activities are all elements of developing a campaign strategy and marketing plan. The marketing plan will constitute a blueprint and action plan to implement the statewide public awareness campaign. Prior to initiation of each work statement task, the Contractor shall consult with the Contract Manager to discuss any technical or other issues associated with the task.

The Contractor's work under this task will include, but not be limited to the following:

- Identifying the rationale and justification for each strategic component of the campaign, such as placing advertising in magazines, Internet, TV, radio, etc. and identifying the methodology for evaluating the effectiveness for each component. In addition, the Contractor will identify the specific

## ATTACHMENT 5

benefits of each deliverable outlined, complete with measurement methodology and a detailed report of the actual benefits achieved upon successful implementation of the deliverables.

- Identifying a method for incorporating flexibility into the campaign to respond quickly to changing market and regulatory conditions.
- Assessing awareness of the campaign and its messages.
- Evaluating the cost efficiency of campaign activities.
- Assessing changes in attitudes and actions that result from the campaign.

Upon approval from the Contract Manager, provide a draft and final report in both hard copy and electronic formats, of all campaign implementation plans, including an Executive Summary, a detailed analysis of media that ran comparing to planned media, with actual media buy reports and affidavits, timeframes, target audiences, advertising materials, and branding and creative materials in a format to be provided by the Contract Manager.

### **Deliverables and Due Dates**

The Contractor will prepare and submit the following to the Contract Manager:

- Monthly Progress Reports
- Draft and Final Contract Reports

### **General Requirements**

Prior to initiation of each task, the Contractor shall consult with the Contract Manager to discuss any technical or other issues associated with the tasks. Drafts of all work products, including survey instruments, advertising collateral, articles or web content, brochures, posters, etc., must be reviewed and approved by the Contract Manager prior to becoming final. Details of these requirements, such as task details, format, and schedules, will be developed in coordination with the Contract Manager and specified in the contract that results from this solicitation.

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### EXHIBIT B

#### Budget Detail and Payment Provision

##### 1. INVOICING PROCEDURES:

- A. For services satisfactorily rendered, and upon receipt and approval of invoices, the Energy Commission agrees to compensate Contractor for actual allowable expenditures incurred in accordance with the rates specified in this Exhibit B. The rates in Exhibit B are rate caps, or the maximum amount allowed to be billed. Contractor can only bill for actual expenses incurred for hours worked at the Contractor's actual direct labor, fringe, and indirect rates, not to exceed the rates specified in Exhibit B.
- B. Invoices shall be submitted in duplicate not more frequently than monthly. The following certification shall be included on each invoice and signed by an authorized official of the Contractor:

*I certify that this invoice is correct and proper for payment, and reimbursement for these costs has not and will not be received from any other sources, including but not limited to a Government Entity contract, subcontract or other procurement method.*

- C. The Energy Commission will accept computer generated or electronically transmitted invoices provided Contractor sends a hard copy the same day to the Energy Commission, the address is noted below and in Agreement Contact List.

California Energy Commission  
Accounting Office, MS-2  
1516 9<sup>th</sup> Street  
Sacramento, California 95814

- D. A request for payment shall consist of, but is not limited to, the following.
- 1) Agreement number, date prepared, and billing period.
  - 2) Contractor's actual hourly labor rates by individual.
  - 3) Operating expenses, e.g., equipment, travel, and miscellaneous, as well as receipts for those expenses.
  - 4) Copy of subcontractor invoices. Identify on invoice summary page if subcontractor is a California Certified Small Business or a Certified Disabled Veteran Business Enterprise and identify the total for current billing period.
  - 5) Fees (fringe, direct and indirect overheads, general and administrative, profit, etc.)
  - 6) Match fund expenditures, if applicable.
  - 7) Invoices shall identify charges by tasks, personnel, labor rates and hours, and expenses authorized by this Agreement or Work Authorizations, if applicable.
  - 8) Work Authorization number, if applicable
- E. As detailed in Exhibit A, Scope of Work:
- 1) A report that documents the progress of the work during the billing period, if applicable.

## ATTACHMENT 5

- 2) Any other deliverables due during the billing period.

2. **BUDGET CONTINGENCY CLAUSE:** It is mutually agreed that if the Budget Act of the current year and/or any subsequent years covered under this Agreement does not appropriate sufficient funds for the work identified in Exhibit A, this Agreement shall be of no further force and effect. In this event, the State shall have no liability to pay any funds whatsoever to Contractor or to furnish any other considerations under this Agreement and Contractor shall not be obligated to perform any provisions of this Agreement.

If funding for any fiscal year is reduced or deleted by the Budget Act for purposes of this program, the State shall have the option to either: cancel this Agreement with no liability occurring to the State, or offer an Agreement Amendment to Contractor to reflect the reduced amount.

3. **TRAVEL AND PER DIEM RATES:** Contractor shall be reimbursed for travel and per diem expenses using the same rates provided to non-represented state employees. Contractor must pay for travel in excess of these rates. Contractor may obtain current rates from the Energy Commission's Web Site at [www.energy.ca.gov/contracts/index.html](http://www.energy.ca.gov/contracts/index.html).

4. **RETENTION:** The Energy Commission shall retain from each invoice ten per cent (10%) of that invoice, excluding equipment invoices. The retained amount shall be held and released only upon approval that the work has been satisfactorily completed and Final Report (if required) has been received and approved. Contractor must submit a separate invoice for the retained amount.

Retention may be released upon completion of tasks that are considered separate and distinct, i.e., the task is a stand-alone piece of work and could be done without the other tasks. The Budget will identify the tasks for which retention may be released prior to the end of the Agreement. Tasks for administration or management of the Agreement and/or subcontractors are not considered separate and distinct tasks.

5. **PAYMENT TERMS:**

**Check all that apply:**

- ☐ Monthly
- ☐ Quarterly
- ☐ One-Time Payment
- ☐ Itemized
- ☐ Flat Rate
- ☐ In Arrears
- ☐ Advance Payment to Public Prime Contractor Not to Exceed \$\_\_\_\_ or \_\_\_\_ % of the Agreement Amount
- ☐ Advance Payment to Private Prime Contractor for Public Subcontractor, (PRC section 25620.3(d)) Not to Exceed \$\_\_\_\_ or \_\_\_\_ % of the Subcontract Amount
- ☐ Reimbursement/Revenue
- ☐ Other (Explain)

6. **CONDITIONS:**

- A. No payment shall be made in advance of services rendered.

## ATTACHMENT 5

- B. Payments shall be made to Contractor for undisputed invoices. An undisputed invoice is an invoice submitted by the Contractor for services rendered and for which additional evidence is not required to determine its validity. The invoice will be disputed if all deliverables due for the billing period have not been received and approved, if the invoice is inaccurate, or if it does not comply with the terms of this Agreement. If the invoice is disputed, Contractor will be notified via a Dispute Notification Form within 15 working days of receipt of the invoice.
- C. Payment will be made in accordance with, and within the time specified, in Government Code Chapter 4.5, commencing with Section 927.
- D. Final invoice must be received by the Energy Commission no later than 30 calendar days after the Agreement termination date.
- E. The State will pay for State or local sales or use taxes on the services rendered or equipment, parts or software supplied to the Energy Commission pursuant to this Agreement. The State of California is exempt from Federal excise taxes, and no payment will be made for any taxes levied on employee's wages.
- F. Reimbursement for costs identified in Contractor invoices has not and will not be received from any other sources, including but not limited to a Government Entity contract or subcontract or other procurement method.

### 7. **BUDGET REALLOCATIONS**

Contract Manager may move up to 10% of the total Agreement amount between tasks, line items or categories without formal amendment, by providing written notice with the revised budget to Contractor and Contract Officer.

### 8. **BUDGET DETAIL**

To be determined

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### EXHIBIT C

#### GENERAL TERMS AND CONDITIONS

PLEASE NOTE: The General Terms and Conditions will be included in the Agreement by reference to internet site: [www.dgs.ca.gov/contracts](http://www.dgs.ca.gov/contracts), choose **Standard Language for Use in Standard Agreements** or if this Agreement is with another State agency, choose **Interagency Agreement**. The exact terms to be used will be those appearing on the website the date the Agreement is signed by Contractor.

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### **EXHIBIT D**

#### Special Terms and Conditions

1. **CONTRACT MANAGEMENT:**

- A. Contractor may change Project Manager but the Energy Commission reserves the right to approve any substitution of the Project Manager.
- B. The Energy Commission may change the Contract Manager by notice given Contractor at any time signed by the Contract Officer.
- C. Commission staff will be permitted to work side by side with Contractor's staff to the extent and under conditions that may be directed by the Energy Commission Contract Manager. In this connection, Commission staff will be given access to all data, working papers, etc., which Contractor may seek to utilize.
- D. Contractor will not be permitted to utilize Energy Commission personnel for the performance of services, which are the responsibility of Contractor unless the Contract Manager previously agrees to such utilization in writing and an appropriate adjustment in price is made. No charge will be made to Contractor for the services of Energy Commission employees while performing, coordinating or monitoring functions.

2. **STANDARD OF PERFORMANCE:**

Contractor shall be responsible in the performance of Contractor's/subcontractor's work under this Agreement for exercising the degree of skill and care required by customarily accepted good professional practices and procedures. Any costs for failure to meet these standards, or otherwise defective services, which require reperformance, as directed by Contract Manager or its designee, shall be borne in total by the Contractor/subcontractor and not the Energy Commission. In the event the Contractor/subcontractor fails to perform in accordance with the above standard the following will apply. Nothing contained in this section is intended to limit any of the rights or remedies which the Energy Commission may have under law.

- A. Contractor/subcontractor will reperform, at its own expense, any task, which was not performed to the reasonable satisfaction of the Contract Manager. Any work reperformed pursuant to this paragraph shall be completed within the time limitations originally set forth for the specific task involved. Contractor/subcontractor shall work any overtime required to meet the deadline for the task at no additional cost to the Energy Commission.
- B. The Energy Commission shall provide a new schedule for the reperformance of any task pursuant to this paragraph in the event that reperformance of a task within the original time limitations is not feasible.
- C. If the Energy Commission directs the Contractor not to reperform a task; the Contract Manager and Contractor shall negotiate a reasonable settlement for satisfactory services rendered. No previous payment shall be considered a waiver of the Energy Commission's right to reimbursement.



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3. **SUBCONTRACTS:** Contractor shall enter into subcontracts with the following firms and/or individuals and shall manage the performance of the subcontractors.

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### OR

No Subcontractors are named for this Agreement. If subcontractors are needed to perform any portion of this Agreement, the following criteria must be met and Contractor shall manage the performance of the subcontractors.

### AND

- A. Nothing contained in this Agreement or otherwise, shall create any contractual relation between the State and any subcontractors, and no subcontract shall relieve the Contractor of his responsibilities and obligations hereunder. The Contractor agrees to be as fully responsible to the State for the acts and omissions of its subcontractors and/or persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by the Contractor. The Contractor's obligation to pay its subcontractors is an independent obligation from the State's obligation to make payments to the Contractor. As a result, the State shall have no obligation to pay or to enforce the payment of any monies to any subcontractor.
- B. Contractor shall be responsible for establishing and maintaining contractual agreements with and the reimbursement of each of, the subcontractors for work performed in accordance with the terms of this Agreement. Contractor shall be responsible for scheduling and assigning subcontractors to specific tasks in the manner described in this Agreement; coordinating subcontractor accessibility to Energy Commission staff, and submitting completed products to the Contract Manager.
- C. All subcontracts shall contain the following: 1) the audit rights and non-discrimination provision stated in the General Terms and Conditions (Exhibit C); 2) further assignments shall not be made to any third or subsequent tier subcontractor without additional written consent of the Contract Manager; and the confidentiality provisions in the Reports paragraph of this Agreement.
- D. Additions, Removal or Substitutions of Subcontractors

The Energy Commission reserves the right to replace a subcontractor, request additional subcontractors, and approve additional subcontractors requested by the Contractor. Such changes shall be subject to the following conditions:

- 1) If the Energy Commission or Contractor requires the replacement or addition of subcontractor(s), the subcontractor(s) shall be selected using 1) A competitive bid process conducted in conformance with the State's and the Energy Commission's

## ATTACHMENT 5

procedures for competitive bids. For example, awards shall be made to the lowest bidder meeting the requirements of the bid document and obtaining a minimum of three bids. Contractor's competitive bid process shall be approved by the Contract Manager and Contract Officer prior to release of the bid document. 2). The Energy Commission may direct Contractor to sole source a subcontract with a specific firm, once the Contract Manager has obtained sole source approval via the Energy Commission's internal procedures. The Contract Manager shall provide justification for the sole source subcontract to the Contracts Officer using the "Subcontractor Add" memo described below.

- 2) The Contract Manager shall complete and submit to the Contract Officer a "Subcontractor Add" memo. This memo identifies the new subcontractor and what bidding method was used to obtain subcontractors (competitive or sole source).
- 3) Contractor shall submit any proposed subcontracts not originally identified in Contractor's proposal, or any substitution of subcontracts to the Energy Commission for its approval prior to Contractor entering into it. Upon the termination of any subcontract, the Contract Manager shall be notified immediately.

### E. Disabled Veteran Business Enterprise (DVBE) Changes

The Contractor shall use the DVBE companies identified in its proposal or in any certifications identifying DVBE to be used in this Agreement. Contractor's failure to adhere to the DVBE participation may be cause for termination. In the event a replacement of a DVBE is necessary, the Contractor shall request written approval, in advance, from the Contract Manager and the Contract Officer. The procedure for replacing any DVBE is:

- 1) Contractor shall inform Contract Manager and Contract Officer in writing of the reason for the DVBE replacement.
- 2) Contractor shall attempt to replace the DVBE with a new DVBE providing the same services or identify other services in the Agreement a new DVBE could provide. Contractor shall complete revised DVBE certification forms (provided by the Contract Officer) identifying the new DVBE. If replacement is not a DVBE, Contractor shall complete steps in compliance with good faith efforts and submit appropriate DVBE documentation to the Contract Officer

### 4. **PERFORMANCE EVALUATION:**

Consistent with Public Contract Code Sections 10367 through 10371, the Energy Commission shall, upon completion of this Agreement, prepare a performance evaluation of the Contractor. Upon filing an unsatisfactory evaluation with the Department of General Services, Office of Legal Services (DGS) the Energy Commission shall notify and send a copy of the evaluation to the Contractor within 15 days. The Contractor shall have 30 days to prepare and send statements to the Energy Commission and the DGS defending his or her performance. The Contractor's statement shall be filed with the evaluation in the Energy Commission's Contract file and with DGS for a period of 36 months and shall not be a public record.

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### 5. REPORTS:

- A. **Progress and Final Reports:** Contractor shall prepare progress reports summarizing all activities conducted by Contractor to date on a schedule as provided in Exhibit A. At the conclusion of this Agreement, Contractor shall prepare a comprehensive Final Report, on a schedule as provided in Exhibit A.
- B. **Title:** Contractor's name shall only appear on the cover and title page of reports as follows:
- California Energy Commission  
Project Title  
Contractor Number  
By (Contractor)
- C. **Ownership:** Each report shall become the property of the Energy Commission.
- D. **Non-disclosure:** Contractor will not disclose data or disseminate the contents of the final or any progress report without written permission of the Contract Manager, except as provided in F, below. Permission to disclose information on one occasion or at public hearings held by the Energy Commission relating to the same shall not authorize Contractor to further disclose and disseminate the information on any other occasion. Contractor will not comment publicly to the press or any other media regarding its report, or Commission's actions on the same, except to Commission staff, Contractor's own personnel involved in the performance of this Contract, or at a public hearing, or in response to questions from a legislative committee. Notwithstanding the foregoing, in the event any public statement is made by the Energy Commission or any other party, based on information received from the Energy Commission as to the role of Contractor or the content of any preliminary or final report, Contractor may, if it believes the statement to be incorrect, state publicly what it believes is correct.
- E. **Confidentiality:** No record which has been designated as confidential, or is the subject of a pending application of confidentiality, shall be disclosed by the Contractor, Contractor's employees or any tier of subcontractors, except as provided in 20 California Code of Regulations, Sections 2506 and 2507, unless disclosure is ordered by a court of competent jurisdiction (20 California Code of Regulations, Sections 2501, et seq.). At the election of the Contract Manager, Contractor, Contractor's employees and any subcontractor shall execute a "Confidentiality Agreement," supplied by the Contract Manager or Contract Officer. Each subcontract shall contain provisions similar to the foregoing related to the confidentiality and nondisclosure of data.
- F. **Disclosure:** Ninety days after any document submitted by the contractor is deemed by the Contract Manager to be a part of the public records of the State, Contractor may, if it wishes to do so at its own expense, publish or utilize a report or written document but shall include the following legend:

### "LEGAL NOTICE"

**"This report was prepared as a result of work sponsored by the California Energy Commission. It does not necessarily represent the views of the Energy Commission, its employees, or the State of California. The Energy Commission, the State of California,**

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**its employees, contractors, and subcontractors make no warranty, express or implied, and assume no legal liability for the information in this report; nor does any party represent that the use of this information will not infringe upon privately owned rights."**

### **6. PURCHASE OF EQUIPMENT**

- A. Equipment identified in this Agreement is approved for purchase.
- B. Equipment not identified in this Agreement shall be subject to prior written approval from the Contract Manager.
- C. All equipment purchased with Commission funds shall be made subject to the following terms and conditions:
  - 1) The Contract Officer will complete a Uniform Commercial Code (UCC.1) Financing Statement and submit it to the Contractor for signature. The Contract Officer will file the signed UCC.1 with the Secretary of State's Office. Invoices for equipment purchases associated with a UCC.1 will not be processed until the UCC.1 has been filed with the Secretary of State's Office.
  - 2) Title to all non-expendable equipment purchased in part or in whole with Commission funds shall remain with the Energy Commission.
  - 3) Contractor shall assume all risk for maintenance, repair, destruction and damage to equipment while in the possession or subject to the control of Contractor. Contractor is not expected to repair or replace equipment that is intended to undergo significant modification or testing to the point of damage/destruction as part of the work described in Exhibit A, Scope of Work.
- D. Upon termination or completion of this Agreement, Commission may:
  - 1) if requested by the Contractor, authorize the continued use of such equipment to further Public Interest Energy Research efforts,
  - 2) by mutual agreement with the Contractor, allow the Contractor to purchase such equipment for an amount not to exceed the residual value of the equipment as of the date of termination or completion of this Agreement, or
  - 3) request that such equipment be delivered to the Energy Commission with any costs incurred for such return to be borne by the Energy Commission.

### **7. CONTRACT DATA, OWNERSHIP RIGHTS:**

- A. "Data" as used in this Agreement means recorded information, regardless of form or characteristic, of a scientific or technical nature. It may, for example, document research or experimental, developmental or engineering work, or be usable or be used to define a design or process, or to support a premise or conclusion asserted in any deliverable document required by this Agreement. The data may be graphic or pictorial delineations in media, such as drawings or photographs, data or information, etc. It may be in machine

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form, such as punched cards, magnetic tape or computer printouts, or may be retained in computer memory.

- B. "Deliverable data" is that data which, under the terms of this Agreement, is required to be delivered to the Energy Commission and shall belong to the Energy Commission.
- C. "Proprietary data" is such data as the Contractor has identified in a satisfactory manner as being under Contractor's control prior to commencement of performance of this Agreement, and which Contractor has reasonably demonstrated as being of a proprietary nature either by reason of copyright, patent or trade secret doctrines in full force and effect at the time when performance of this Contract is commenced. The title to "proprietary data" shall remain with the Contractor throughout the term of this Agreement and thereafter. The extent of the Energy Commission access to, and the testimony available regarding, the proprietary data shall be limited to that reasonably necessary to demonstrate, in a scientific manner to the satisfaction of scientific persons, the validity of any premise, postulate or conclusion referred to or expressed in any deliverable for this Agreement.
- D. "Generated data" is that data, which a Contractor has collected, collated, recorded, deduced, read out or postulated for utilization in the performance of this Contract. Any electronic data processing program, model or software system developed or substantially modified by the Contractor in the performance of this Contract at the Energy Commission's expense, together with complete documentation thereof, shall be treated in the same manner as "generated data." "Generated data" shall be the property of the Energy Commission, unless and only to the extent that it is specifically provided otherwise in this Agreement.
- E. As to "generated data" which is reserved to Contractor by the express terms hereof, and as to any pre-existing or "proprietary data" which has been utilized to support any premise, postulate or conclusion referred to or expressed in any deliverable hereunder, Contractor shall preserve the same in a form which may be introduced as evidence in a court of law at Contractor's own expense for a period of not less than three years after receipt by the Energy Commission of the Final Report herein.
- F. Before the expiration of the three years, and before changing the form of or destroying any data, Contractor shall notify the Energy Commission of any contemplated action and the Energy Commission may, within thirty (30) days after notification, determine whether it desires the data to be preserved. If the Energy Commission so elects, the expense of further preserving data shall be paid for by the Energy Commission. Contractor agrees that the Energy Commission may at its own expense, have reasonable access to data throughout the time during which data is preserved. Contractor agrees to use its best efforts to furnish competent witnesses or to identify competent witnesses to testify in any court of law regarding data.

### 8. **RIGHTS OF PARTIES IN COPYRIGHTS, PHYSICAL WORKS OF ART AND FINE ART:**

The Contractor; by signing this Contract, expressly grants to the Energy Commission for all copyrightable material, work of art and original work of authorship first produced, composed or authored in the performance of this Contract a royalty-free, paid-up, non-exclusive, irrevocable, nontransferable, worldwide license to produce, translate, publish, use, dispose of, reproduce,

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prepare derivative works based on, distribute copies of, publicly perform, or publicly display a work of art or fine art, and to authorize others to produce, translate, publish, use, dispose of, reproduce, prepare derivative works based on, distribute copies of, publicly perform, or publicly display a work of art or fine art.

Contractor, by signing this Contract, expressly conveys to the Energy Commission all ownership of the physical works of art and fine art produced under this Contract. Contractor agrees it does not reserve any rights to the physical works of art and fine art produced under this Contract.

Contractor shall obtain these same rights for the Energy Commission from all subcontractors and others who produce copyrightable material, works of art, or works of fine art under this Contract. Contractor shall incorporate these paragraphs, modified appropriately, into its agreements with subcontractors. No subcontract shall be entered into without these rights being assured to the Energy Commission from the subcontractor.

9. **PUBLIC HEARINGS:** If public hearings on the scope of work are held during the period of the Contract, Contractor will make available to testify the personnel assigned to this Agreement. The Energy Commission will reimburse Contractor for compensation and travel of the personnel at the Contract rates for the testimony which the Energy Commission requests.
10. **DISPUTES:** In the event of a Contract dispute or grievance between Contractor and the Energy Commission, both parties shall follow the following two-step procedure. Contractor shall continue with the responsibilities under this contract during any dispute.

### A. Commission Dispute Resolution

The Contractor shall first discuss the problem informally with the Contract Manager. If the problem cannot be resolved at this stage, the Contractor must direct the grievance together with any evidence, in writing, to the Contracts Officer. The grievance must state the issues in the dispute, the legal authority or other basis for the Contractor's position and the remedy sought. The Contracts Officer and the Program Office Manager must make a determination on the problem within ten (10) working days after receipt of the written communication from the Contractor. The Contracts Officer shall respond in writing to the Contractor, indicating a decision and explanation for the decision. Should the Contractor disagree with the Contracts Officer decision, the Contractor may appeal to the second level.

The Contractor must prepare a letter indicating why the Contracts Officer's decision is unacceptable, attaching to it the Contractor's original statement of the dispute with supporting documents, along with a copy of the Contracts Officer's response. This letter shall be sent to the Energy Commission's Executive Director within ten (10) working days from receipt of the Contracts Officer's decision. The Executive Director or designee shall meet with the Contractor to review the issues raised. A written decision signed by the Executive Director or designee shall be returned to the Contractor within twenty (20) working days of receipt of the Contractor's letter. The Executive Director may inform the Energy Commission of the decision at an Energy Commission business meeting. Should the Contractor disagree with the Executive Director's decision, the Contractor may appeal to the Energy Commission at a regularly scheduled business meeting. Contractor will be provided with the current procedures for placing the appeal on an Energy Commission Business Meeting Agenda.

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### B. Binding Arbitration

Should the Energy Commission's Dispute Resolution procedure above fail to resolve a contract dispute or grievance to the satisfaction of the Contractor, the Contractor and Commission mutually may elect to have the dispute or grievance resolved through binding arbitration. If one party does not agree, the matter shall not be submitted to arbitration. The arbitration proceeding shall take place in Sacramento County, California, and shall be governed by the commercial arbitration rules of the American Arbitration Association (AAA) in effect on the date the arbitration is initiated. The dispute or grievance shall be resolved by one (1) arbitrator who is an expert in the particular field of the dispute or grievance. The arbitrator shall be selected in accordance with the aforementioned commercial arbitration rules. If arbitration is mutually decided by the parties, arbitration is in lieu of any court action and the decision rendered by the arbitrator shall be final (not appealable to a court through the civil process). However, judgment may be entered upon the arbitrator's decision and is enforceable in accordance with the applicable law in any court having jurisdiction over this Agreement. The demand for arbitration shall be made no later six (6) months after the date of the contract's termination, despite when the dispute or grievance arose, and despite the applicable statute of limitations for a suit based on the dispute or grievance. If the parties do not mutually agree to arbitration, the parties agree that the sole forum to resolve a dispute is state court.

The cost of arbitration shall be borne by the parties as follows:

- 1) The AAA's administrative fees shall be borne equally by the parties;
- 2) The expense of a stenographer shall be born by the party requesting a stenographic record;
- 3) Witness expenses for either side shall be paid by the party producing the witness;
- 4) Each party shall bear the cost of its own travel expenses;
- 5) All other expenses shall be borne equally by the parties, unless the arbitrator apportions or assesses the expenses otherwise as part of his or her award.

At the option of the parties, any or all of these arbitration costs may be deducted from any balance of Contract funds. Both parties must agree, in writing, to utilize contract funds to pay for arbitration costs.

### 11. **TERMINATION:**

The parties agree that because the Energy Commission is a state entity and contracts on behalf of all Californian rate payers, it is necessary for the Energy Commission to be able to terminate, at once, upon the default of Contractors and to proceed with the work required under the Agreement in any manner the Energy Commission deems proper. Contractor specifically acknowledges that the unilateral termination of the Agreement by the Energy Commission under the terms set forth below is an essential term of the Agreement, without which the Energy Commission would not enter into the Agreement. Contractor further agrees that upon any of the events triggering the unilateral termination the Agreement by the Energy Commission, the Energy Commission has the sole right to terminate the Agreement, and it would constitute bad faith of the Contractor to interfere with the immediate termination of the Agreement by the Energy Commission.

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This Agreement may be terminated for any reason set forth below.

### A. With Cause

In the event of any breach by the Contractor of the conditions set forth in this Agreement, the Energy Commission may, without prejudice to any of its legal remedies, terminate this Agreement for cause upon five (5) days written notice to the Contractor. In such event, Commission shall pay Contractor only the reasonable value of the services theretofore rendered by Contractor, as may be agreed upon by the parties or determined by a court of law, but not in excess of the contract maximum payable. "Cause" includes without limitation:

- 1) Failure to perform or breach of any of the terms or covenants at the time and in the manner provided in this Agreement; or
- 2) Contractor is not able to pay its debts as they become due and/or Contractor is in default of an obligation that impacts his ability to perform under this Agreement; or
- 3) It is determined after notice and hearing by the Energy Commission or the Executive Director that gratuities were offered or given by the Contractor or any agent or representative of the Contractor, to any officer or employee of the Energy Commission, with a view toward securing an Agreement or securing favorable treatment with respect to awarding or amending or making a determination with respect to performance of the Agreement; or
- 4) Significant change in Commission policy such that the work or product being funded would not be supported by the Energy Commission; or
- 5) Reorganization to a business entity unsatisfactory to the Energy Commission; or
- 6) The retention or hiring of subcontractors, or the replacement or addition of personnel that fail to perform to the standards and requirements of this Agreement.

### B. Without Cause

The Energy Commission may, at its option, terminate this Agreement without cause in whole or in part, upon giving thirty (30) days advance notice in writing to the Contractor. In such event, the Contractor agrees to use all reasonable efforts to mitigate the Contractor's expenses and obligations hereunder. Also, in such event, the Energy Commission shall pay the Contractor for all satisfactory services rendered and expenses incurred within 30 days after notice of termination which could not by reasonable efforts of the Contractor have been avoided, but not in excess of the maximum payable under this Agreement.

## 12. **WAIVER:**

No waiver of any breach of this Contract shall be held to be a waiver of any other or subsequent breach. All remedies afforded in this Contract shall be taken and construed as cumulative, that is, in addition to every other remedy provided therein or by law. The



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failure of the Energy Commission to enforce at any time any of the provisions of this Contract, or to require at any time performance by Contractor of any of the provisions, shall in no way be construed to be a waiver of those provisions, nor in any way affect the validity of this Contract or any part of it or the right of the Energy Commission to thereafter enforce each and every such provision.

13. **CAPTIONS:**

The clause headings appearing in this Agreement have been inserted for the purpose of convenience and ready reference and do not define, limit, or extend the scope or intent of the clauses.

14. **PRIOR DEALINGS, CUSTOM OR TRADE USAGE:**

In no event shall any prior course of dealing, custom or trade usage modify, alter, or supplement any of these terms.

15. **NOTICE:**

Notice to either party may be given using the following delivery methods, certified mail, Federal Express, United Parcel Service, or personal delivery, providing evidence of receipt, to the respective parties identified on page one of this Agreement.

Delivery by fax or e-mail is not considered notice for the purpose of this Agreement. Notice shall be effective when received, unless a legal holiday for the State commences on the date of the attempted delivery. In which case, the effective date shall be postponed 24 hours, or whenever the next business day occurs.

16. **STOP WORK:**

The Contract Officer may, at any time, by written notice to Contractor, require Contractor to stop all or any part of the work tasks in this Agreement. Stop Work Orders may be issued for reasons such as a project exceeding budget, standard of performance, out of scope work, delay in project schedule, misrepresentations and the like.

- A. Compliance Upon receipt of such stop work order, Contractor shall immediately take all necessary steps to comply therewith and to minimize the incurrence of costs allocable to work stopped.
- B. Equitable Adjustment An equitable adjustment shall be made by Commission based upon a written request by Contractor for an equitable adjustment. Such adjustment request must be made by Contractor within thirty (30) days from the date of receipt of the stop work notice.
- C. Revoking a Stop Work Order Contractor shall resume the stopped work only upon receipt of written instructions from the Energy Commission Contract Officer canceling the stop work order.

17. **INTERPRETATION OF TERMS:** Any inconsistency between the terms of any exhibits shall be resolved in favor of Exhibit A, Scope of Work and Exhibit D, Special Terms and Conditions.

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### EXHIBIT E

#### Additional Provisions

##### 1. CONFIDENTIALITY

###### A. Information Considered Confidential

If applicable, all Contractor information considered confidential at the commencement of this Agreement is designated in the Attachment to this Exhibit.

###### B. Confidential Deliverables: Labeling and Submitting Confidential Information

Prior to the commencement of this Agreement, if applicable, the parties have identified in the Attachment to this Exhibit, specific Confidential Information to be provided as a deliverable. All such confidential deliverables shall be marked, by the Contractor, as "Confidential" on each page of the document containing the Confidential Information and presented in a sealed package to the Commission Contracts Officer. (Non-confidential deliverables are submitted to the Accounting Office.) All Confidential Information will be contained in the "confidential" volume: no Confidential Information will be in the "public" volume.

###### C. Submittal of Unanticipated Confidential Information as a Deliverable

The Contractor and the Energy Commission agree that during this Agreement, it is possible that the Contractor may develop additional data or information not originally anticipated as a confidential deliverable. In this case, Contractor shall follow the procedures for a request for designation of Confidential Information specified in 20 CCR 2505. The Energy Commission's Executive Director makes the determination of confidentiality. Such subsequent determinations may be added to the list of confidential deliverables in the Attachment to this Exhibit.

###### D. Disclosure of Confidential Information

Disclosure of Confidential Information by the Energy Commission may only be made pursuant to 20 CCR 2506 and 2507. All confidential data, records or deliverables that are legally disclosed by the Contractor or any other entity become public records and are no longer subject to the above confidentiality designation.

2. **PROPOSAL INTERPRETATION:** This project shall be conducted in accordance with the terms and conditions of Commission Request for Proposal #400-06-401, titled New Solar Homes Partnership Public Awareness Campaign, Contractor's proposal dated \_\_\_\_\_ and this Agreement. The Contractor's proposal is not attached, but is expressly incorporated by reference into this Agreement. In the event of conflict or inconsistency between the terms of this Agreement and the Contractor's proposal, this Agreement shall be considered controlling.

3. **WORK AUTHORIZATION PROCESS:** If applicable for this contract, the Energy Commission Contract Manager shall prepare a Work Authorization.(WA) directing the work the Contractor provides. All WA shall be in writing, numbered sequentially and approved by the

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Contractor's Project Manager and Commission's Contract Manager before beginning work. The Energy Commission Contract Manager shall file all signed WA with the Energy Commission Contracts Office. Each WA shall detail the following:

1. Detailed scope of work and what task the WA falls within related to this Agreement, objective or goals, the technology area and identification of the Contract/subcontractor team.
  2. All significant materials to be developed or services delivered. Identification of any materials to be furnished by the Energy Commission to the Contractor. The due dates for materials or services performed under the WA. The time period for entire WA. Estimated budget including person hours, hourly rates, travel expenses, and total cost of the WA.
- A. The Energy Commission reserves the right to require the Contractor to stop or suspend work on any WA. The Energy Commission Contract Manager shall provide in writing to the Contractor's Project Manager notice of the date work is halted or suspended. Costs incurred to that date shall be reimbursed in accordance with the termination clause.
- B. The actual costs of a completed WA shall not exceed the authorized amount, except under the following condition:
- If, in the performance of the work, the Contractor determines that the actual costs will exceed the estimated costs, Contractor shall immediately notify the Energy Commission Contract Manager. Upon such notification, the Energy Commission Contract Manager may:
- 1) Alter the scope of the WA to accomplish the work within the estimated costs; or
  - 2) Augment the dollar amount of the WA via an amendment; or
  - 3) Authorize the Contractor to complete the work for the actual costs; or
  - 4) Terminate the WA.
- C. Each WA shall be incorporated into this Agreement. However, it is understood and agreed by both parties that all of the terms and conditions of this Agreement shall remain in force with the inclusion of any such WA. A WA shall in no way constitute an independent contract, other than as provided pursuant to this Agreement, nor in any way amends or supersedes any of the other provisions of this Agreement.

### 4. **CONFLICT OF INTEREST:**

- A. Contractor agrees to continuously review new and upcoming projects in which members of the Contractor team may be involved for potential conflicts of interest. Contractor shall inform the Contract Manager as soon as a question arises about whether a potential conflict may exist. The Contract Manager and Commission's Chief Counsel's Office shall determine what constitutes a potential conflict of interest. The Energy Commission reserves the right to redirect work and funding on a project if the Commission's Chief Counsel's Office determines that there is a potential conflict of interest.
- B. The Contractor shall submit an economic interest statement (Fair Political Practices Commission's Form 700) from each employee or subcontractor whom the Energy Commission's Chief Counsel's Office, in consultation with the Contract Manager, determines is a consultant under the Political Reform Act and, thus, subject to the requirements and restrictions of the Act. Such determination will be based on the nature

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and duration of the work to be performed by the employee or subcontractor. The determination as to who is a consultant under the Political Reform Act shall be requested by the Contract Manager before work by the employee or subcontractor begins. Each employee and subcontractor determined to be a consultant under the Political Reform Act shall be subject to the same disclosure category or categories applicable to the Commission staff who perform the same nature and scope of work as the consultant.

- C. No person, firm, or subsidiary thereof who has been awarded a consulting services contract may submit a bid for, nor be awarded a contract for, the provision of services, procurement of goods or supplies, or any other related action which is required, suggested, or otherwise deemed appropriate in the end product of the consulting services contract. This does not apply to any person, firm, or subsidiary thereof who is awarded a subcontract of a consulting services contract which amounts to no more than 10 percent of the total monetary value of the consulting services contract.

- 1) Follow-on Contracts

No person, firm, or subsidiary thereof who has been awarded a consulting services contract, or a contract which includes a consulting component, may be awarded a contract for the provision of services, delivery of goods or supplies, or any other related action which is required, suggested, or otherwise deemed appropriate as an end product of the consulting services contract. Therefore, any consultant that contracts with a state agency to develop a feasibility study or provide formal recommendations for the acquisition of EDP products or services is precluded from contracting for any work recommended in the feasibility study or the formal recommendation.

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### EXHIBIT F

#### NAMES AND ADDRESSES OF AGREEMENT REPRESENTATIVES

<b>Commission Contract Manager:</b>  NAME, MS- California Energy Commission 1516 Ninth Street Sacramento, CA 95814 Phone: (916) Fax: (916) e-mail: @energy.state.ca.us	<b>Contractor Project Manager:</b>  (Name) (Contractor Name) Address  Phone: Fax: e-mail:
<b>Commission Contract Officer:</b>  Peg A. Bergmann, MS-18 California Energy Commission 1516 Ninth Street Sacramento, CA 95814 Phone: (916) 654-7093 Fax: (916) 654-4423 e-mail: pbergman@energy.state.ca.us  Deliver confidential deliverables to this location only.	<b>Contractor Contract Officer:</b>  (Name) (Contractor Name) Address  Phone: Fax: e-mail:
<b>Invoices, Progress Reports and Non-Confidential Deliverables to:</b>  Accounting Office, MS-2 California Energy Commission 1516 Ninth Street Sacramento, CA 95814 Phone: Fax: 916-653-1435 e-mail:	
<b>Legal Notices:</b>  Cheryl Raedel, MS-18 Manager, Contracts Office California Energy Commission 1516 Ninth Street Sacramento, CA 95814 Phone: 916-654-4392 Fax: 916-654-4423 e-mail: <u>craedel@energy.state.ca.us</u>	(contractor legal person)